

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

UNITED STATES OF AMERICA,

Plaintiff;

v.

Criminal Action
3:14CR12

ROBERT F. McDONNELL and
MAUREEN G. McDONNELL,

Defendants.

August 11, 2014
Richmond, Virginia
9:45 a.m.

JURY TRIAL - VOLUME XI

BEFORE: HONORABLE JAMES R. SPENCER
United States District Judge

APPEARANCES: MICHAEL S. DRY, ESQ.
DAVID V. HARBACH, II, ESQ.
JESSICA D. ABER, ESQ.
RYAN S. FAULCONER, ESQ.
Counsel for Government;

JOHN L. BROWNLEE, ESQ.
HENRY W. ASBILL, ESQ.
JAMES M. BURNHAM, ESQ.
DANIEL I. SMALL, ESQ.
CHRISTOPHER M. IAQUINTO, ESQ.
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Counsel for Robert F. McDonnell;

WILLIAM A. BURCK, ESQ.
HEATHER H. MARTIN, ESQ.
STEPHEN M. HAUSS, ESQ.
DANIEL KOFFMANN, ESQ.
Counsel for Maureen G. McDonnell.

JEFFREY B. KULL
OFFICIAL COURT REPORTER

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1 P-R-O-C-E-E-D-I-N-G-S

2 THE CLERK: Day eleven, Case Number 3:14CR12:
3 United States of America versus Robert F. McDonnell and
4 Maureen G. McDonnell. The United States is represented by
5 Michael Dry, David Harbach, Jessica Aber and Ryan
6 Faulconer. Robert F. McDonnell is represented by John
7 Brownlee, Daniel Small, Henry Asbill, James Burnham, and
8 Christopher Iaquinto. Maureen G. McDonnell is represented
9 by Heather Martin, William Burck, Stephen Hauss, and
10 Daniel Koffmann. Are counsel ready to proceed?

11 MR. DRY: The United States is ready to proceed.

12 MR. ASBILL: Mr. McDonnell is ready to proceed.

13 MR. BURCK: Ms. McDonnell is ready to proceed.

14 THE COURT: All right. Let's bring in the jury.

15 (The jury entered the courtroom.)

16 Good morning. All right, government, call your next
17 witness, please.

18 MR. FAULCONER: Your Honor, the United States
19 calls Martin Kent.

20 MARTIN KENT,
21 called as a witness by and on behalf of the government,
22 having been first duly sworn by the Clerk, was examined
23 and testified as follows:

24 DIRECT EXAMINATION

25 BY MR. FAULCONER:

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1 Q Good morning.

2 A Good morning.

3 Q Could you please state your name and spell your last
4 for the court reporter?

5 A Martin Kent, K-E-N-T.

6 Q What city do you currently live in?

7 A Bristol, Tennessee.

8 Q Could you briefly tell the jury a little bit about
9 your educational background, Mr. Kent?

10 A I can. I graduated from the University of Richmond
11 and I attended law school at the Mercer University School
12 of Law in Macon, Georgia.

13 Q Where are you currently employed?

14 A At The United Company.

15 Q What is The United Company?

16 A It is a private diversified investment company
17 primarily focused on art, entertainment, and energy.

18 Q Before working at the United Company, where did you
19 work? I worked for Governor Bob McDonnell as his Chief of
20 Staff.

21 Q How long did you work as Mr. McDonnell's Chief of
22 Staff?

23 A Four years.

24 Q Was that the entire Administration?

25 A It was.

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1 Q Now, before Mr. McDonnell took office as Governor,
2 where did you work?

3 A I worked at the Office of the Attorney General, and
4 started working there in 2001.

5 Q By the time that Mr. McDonnell left the Office of the
6 Attorney General, what was your role?

7 A When he left the Office of Attorney General in 2009
8 to run for Governor, I was then serving as Chief Counsel
9 to the Attorney General.

10 Q As Chief Counsel to him while he was Attorney
11 General, what were your general responsibilities?

12 A Primarily dealing with the General Assembly, dealing
13 with the Governor's Office, I was a directly liaison to
14 the Governor's Office, and then representation of state
15 boards and commissions.

16 Q Now, as Chief of Staff for Mr. McDonnell when he was
17 Governor, what were your responsibilities then?

18 A They are actually spelled out by an executive order,
19 Executive Order 3. Primarily, I was the Deputy Budget and
20 Personnel Officer for the Commonwealth, and I was
21 responsible for overseeing sort of the daily work of the
22 Governor's Cabinet.

23 Q Would it be fair to characterize you as sort of the
24 catch-all guy?

25 A Pretty much, yeah.

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1 Q As Chief of Staff, who did you report to?

2 A The Governor.

3 Q Given that you reported to him directly, how often
4 would you say you spoke to him?

5 A There were days we spoke multiple times, and then
6 when he was traveling there were days that we may
7 communicate by text message or e-mail, but at least daily
8 in some communication mode.

9 Q If Mr. McDonnell told you to do something when he was
10 Governor, would you do it?

11 A Absolutely.

12 Q So was he your boss?

13 A He was my boss, yup.

14 Q I'd like to get a little bit of a sense, we have
15 heard some testimony about it, but since you were Chief of
16 Staff, I'd like to get a sense of who else was in the
17 office and how things were structured. Can you explain
18 how many Cabinet Secretaries there were?

19 A There were 12 official, and when I say official, the
20 Governor by executive order also made some appointments
21 that were Cabinet-level positions, but there were 12
22 primary Cabinet positions when we started in office.

23 Q All those Cabinet Secretaries, did they have
24 subordinate staff of their own?

25 A They did.

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1 Q Do you recognize the name Dr. Bill Hazel?

2 A I do.

3 Q Which Cabinet Secretary was he?

4 A Health and Human Resources.

5 Q Do you recognize the name Molly Huffstetler?

6 A I do.

7 Q Who was Molly Huffstetler?

8 A She worked for Dr. Hazel. We had, early on, actually
9 it predated the Administration, but the Affordable Care
10 Act was passed into law and we developed an initiative
11 called the Health Reform Initiative, which really the
12 design of that was sort of to oversee Virginia's
13 implementation of the Affordable Care Act. And she was in
14 essence the director of that initiative.

15 Q Do you recognize the name Lisa Hicks-Thomas?

16 A I do.

17 Q Who was Lisa Hicks-Thomas?

18 A The Secretary of Administration.

19 Q How about the name Sara Wilson?

20 A I do.

21 Q Who was Sara Wilson?

22 A She was the Director of Human Resource Management.

23 Q Who did Sara Wilson report to?

24 A To Lisa.

25 Q Ms. Hicks-Thomas?

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1 A Lisa Hicks-Thomas. I apologize.

2 Q Who did she report to?

3 A She reported through me to the Governor.

4 Q Each of these people -- sorry, you have talked a
5 little bit about Cabinet Secretaries. Could you tell us
6 the difference between the Cabinet Secretaries and what
7 sort of is referred to as the Office of the Governor
8 itself?

9 A Sure. Probably it is easiest to give you sort of a
10 visual of the way the office is structured at the Patrick
11 Henry Building. In what we called the pod, which was the
12 area directly where the Governor's Office was and my
13 office was, and then immediately on each side of that were
14 staff members. They could be anything from our
15 communications shop to our policy and legal shop,
16 scheduling, anything legislatively-related. Those were
17 staff members that were sort of contained within the unit
18 called the Governor's Office. But the Governor's Office
19 is actually made up of not only those staff members, but
20 the secretariats which are around the building, so to
21 speak, at the Patrick Henry Building.

22 Q Now, how did the Mansion staff relate to the
23 Governor's Office?

24 A The Mansion staff also reported to the Governor's
25 Office ultimately. But they were sort of self-contained

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1 at the Mansion. They had offices at the Mansion. They
2 did not have offices at our office at the Patrick Henry
3 Building.

4 Q The staff that were at the Mansion, were those state
5 employees?

6 A They were.

7 Q Would that include Mary-Shea Sutherland and Sarah
8 Scarbrough?

9 A It did.

10 Q All of those people, including those at the Mansion,
11 who did they ultimately report to?

12 A Ultimately reported to the Governor.

13 Q Now, in your job, was it also common for some of
14 those staffers to relay information to you from either
15 Mr. McDonnell or Ms. McDonnell?

16 A That did happen, yes.

17 Q I'd like to talk a little bit now about sort of what
18 happened on a routine basis within the office and some of
19 the Administration's priorities. Based on your
20 interactions with Mr. McDonnell as his Chief of Staff, and
21 the things that he asked you to do, can you tell us where
22 on the Administration's list of priorities the matter of
23 Virginia business and economic development was?

24 A It was at the top of the list. I would say it was
25 probably only second to public safety.

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1 Q During your time in the Administration, how common
2 was it for Mr. McDonnell to talk about promoting Virginia
3 business and economic development?

4 A Did it on a daily basis.

5 Q How common was it for your day-to-day work to relate
6 to furthering those issues?

7 A I did so on a daily basis as well.

8 Q I'd like to take a couple examples about sort of
9 breaking down how that would work. How common was it for
10 the Governor's Mansion to host events to promote Virginia
11 business and economic development?

12 A It was very common. I think staff, long time staff
13 members at the Mansion had commented to me that we
14 probably had more events at the Mansion than any other
15 administration they could recall.

16 Q How common was it for you or other government
17 employees to participate in planning those events?

18 A It was common.

19 Q Would that include people like Sarah Scarbrough?

20 A It would. Actually, her primary job, or one of her
21 primary jobs as Mansion Director, was to coordinate that
22 to send out invitations, to ensure that the bills were
23 paid. That was one of her main functions, yes.

24 Q When those people had planned those events, as Chief
25 of Staff, did you expect them to take time off or was it

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1 official time when they did that?

2 A That was part of their job.

3 Q How common was it for Mr. McDonnell to attend those
4 types of events?

5 A Very common.

6 Q Was part of your job to try to figure out which event
7 you should or shouldn't host or which events Mr. McDonnell
8 should or shouldn't attend?

9 A At the Mansion, I would not say that was my primary
10 job. We had, it was a little complicated, but to simplify
11 it, we had a scheduling process where events, invitations
12 to events outside of really Richmond, but more
13 specifically, outside of the Governor's Office, or the
14 Mansion, we had a scheduling process where we would review
15 those, if we got them in advance, and make a threshold
16 determination of whether it was something that seemed to
17 be gubernatorial in nature or something more appropriate
18 for a Cabinet member or staff member to attend on the
19 Governor's behalf. But then on occasion there were events
20 at the Mansion where I may or may not be pulled in, but on
21 a day-to-day basis I was not pulled into the
22 decision-making process on the events at the Mansion.
23 That was primarily the Mansion staff that dealt with that.

24 Q Was there a process in place to your awareness as
25 Chief of Staff for deciding which events to have and not

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1 to have?

2 A Yes, there was.

3 Q How common was it for other government officials to
4 attend events at the Mansion and elsewhere?

5 A Very common.

6 Q How common was it for Virginia businesspeople to
7 attend those events?

8 A Very common.

9 Q How common was it for Ms. McDonnell to attend those
10 events?

11 A She attended regularly. She did not attend all. If
12 she was in town and the Governor felt like it was
13 important for her to be there, she usually made an
14 appearance.

15 Q Were there times where Mr. McDonnell couldn't attend
16 an event and a surrogate would be sent instead?

17 A There were.

18 Q Now, with all this process and all these events
19 potentially on the table, who was it who had the final
20 authority to decide whether or not an event would make it
21 onto the calendar or not make it onto the calendar?

22 A Ultimately it was the Governor's call.

23 Q We have talked a little bit about events. I'd like
24 to talk just a little bit about meetings. How common was
25 it for Mr. McDonnell to have meetings on his schedule?

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1 A Very common.

2 Q Was it part of your job to help figure out which
3 meetings he should and shouldn't attend?

4 A There were meetings that were, yes, filtered through
5 me and that was part of my job. But there was also sort
6 of a separate track where we are all extremely busy in the
7 office. I mean, everyone in the office is really going
8 24/7. There would be calls that would come in to the
9 Governor's scheduler, and there would be meetings between
10 the Governor and the scheduler with certain events and
11 then there were some that I was pulled into as well. It
12 was really sort of hit or miss depending on the issue at
13 hand.

14 Q How common was it for those meetings to relate to
15 promoting Virginia business and economic development?

16 A Very common.

17 Q How common was it for other Administration officials
18 like Cabinet Secretaries to attend meetings?

19 A Scheduling meetings or --

20 Q Just meetings in general.

21 A Very common.

22 Q At times, would those Cabinet Secretaries or other
23 Administration officials attend meetings instead of
24 Mr. McDonnell?

25 A Yes, routinely.

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1 Q Now, would one of the types of meetings that
2 Mr. McDonnell would have on his schedule be Cabinet
3 meetings with his Cabinet Secretaries?

4 A And that was one of the things that I was responsible
5 for. We attempted to do that on a weekly basis.

6 Q Would those include at times people like Lisa
7 Hicks-Thomas and Sara Wilson?

8 A It did.

9 Q Now, when Mr. McDonnell was in meetings like that,
10 was it common for him to ask his Cabinet officials to do
11 things?

12 A It was.

13 Q Would that include asking them to look into
14 something?

15 A Absolutely.

16 Q Would that include asking them to meet with people?

17 A It did.

18 Q Just to be clear, we have talked about meetings a
19 little bit. Assuming it had nothing to do with an
20 emergency, like some sort of public safety issue, but they
21 were talking about a meeting with an outside third party,
22 would you typically try to give Administration officials
23 some notice so they could prepare for that meeting?

24 A You tried to. I would say more oftentimes than not
25 you did. But inevitably, there were times when people

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1 would call in and, just by the caller, you knew it was
2 probably an issue of statewide importance and you would
3 take those sometimes on the fly.

4 Q How common was it on the spectrum for a meeting to be
5 arranged on less than 12 hours' notice?

6 A Not common, but it happened.

7 Q We talked about meetings and events, so now I'd like
8 to talk a little bit about interactions with other state
9 government entities and agencies. In addition to hiring
10 staff and appointing Cabinet officials, did Mr. McDonnell
11 also have a role in appointing members of various state
12 boards and commissions?

13 A He did.

14 Q Did that include the Board of Visitors for Virginia
15 Commonwealth University?

16 A It did.

17 Q Could you tell us just sort of generally what the
18 Board of Visitors is in more common language?

19 A Sure. Each state university in Virginia, there is a
20 code section which spells out what the role of the Board
21 of Visitors would be, but generally speaking, they set
22 sort of the policy goals and initiatives for the
23 university. One of the biggest things they do that gets
24 the most attention is they vote on any tuition increases
25 which occur at the university. They are designed to set

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1 sort of the broad policy objectives of the university, and
2 the President of the university is then to carry out those
3 goals.

4 Q For Virginia Commonwealth University, did that Board
5 of Visitors include 16 members?

6 A I believe that's correct. It was certainly more than
7 12.

8 Q Were all of them appointed by the Governor?

9 A To my knowledge, they were, yes.

10 Q How about the University of Virginia? Was it the
11 same process for UVA?

12 A Generally speaking, yes.

13 Q Did that Board of Visitors have about 17 people on
14 it?

15 A That sounds right, yes.

16 Q Did all of those, or were all of those individuals
17 appointed by Mr. McDonnell?

18 A To my knowledge, yes, they were.

19 Q Or whoever was Governor at the time.

20 A Correct.

21 Q Just to be up front with the jury, just because the
22 Governor appoints members to the Board of Visitors, does
23 that mean he controls every last thing that happens at the
24 university?

25 A No, and particularly in the case of the University of

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1 Virginia, the Board members sort of jealously guard their
2 role, and so there is no day-to-day communication with
3 them about what they should and shouldn't do. However, we
4 did hold periodic meetings, particularly when new members
5 were appointed, and give them sort of the things that the
6 Governor had ran on, the initiatives he promised, an
7 example being lower tuition. You know, Virginians spoke
8 loud and clear that they wanted lower tuition at state
9 schools, and that was an issue we did discuss with them.
10 But generally speaking, we didn't control their day-to-day
11 activities, no.

12 Q Regardless of that, if the Governor wants to ask the
13 Board of Visitors to resign, can he do so?

14 A He can ask them to resign. There is some limitation
15 in the State Code as to whether he can force them to
16 resign, but he can certainly always ask them to resign,
17 yes.

18 Q I'd like to show you what's been marked for
19 identification as Exhibit 619. Mr. Kent, is this a letter
20 from Mr. McDonnell to the Board of Visitors of the
21 University of Virginia?

22 A It does appear to be, yes.

23 Q Is it dated June 22nd, 2012?

24 A It is.

25 Q Does this relate to a controversy surrounding the

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1 resignation of the UVA President?

2 A Yes, it does appear to.

3 Q Turning just to the last page of this document, is
4 that Mr. McDonnell's signature at the bottom?

5 A It is.

6 MR. FAULCONER: We would offer Exhibit 619 into
7 evidence.

8 THE COURT: It will be admitted.

9 BY MR. FAULCONER:

10 Q Now, Mr. Kent, if we could turn back to the first
11 page briefly. Do you recall actually being involved in
12 the preparation of this letter?

13 A I do. You know, it wasn't something -- we had a
14 Secretary of Education and our Secretary of the
15 Commonwealth that really dealt day in and day out with
16 board members and education issues. But this was an issue
17 that got so much attention that I was part of this, yes.

18 Q If we could turn to the third page. Could you read
19 just the third-to-last paragraph there that starts with
20 "But let me be absolutely clear..."

21 A It says, "But let me be absolutely clear; I want
22 final action by the Board on Tuesday. If you fail to do
23 so, I will ask for the resignation of the entire Board on
24 Wednesday. Regardless of your decision, I expect you to
25 make a clear, detailed, and unified statement on the

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1 future leadership of the University."

2 Q We can take that down. We have talked about VCU and
3 UVA.

4 A We did.

5 Q Does the Governor, whoever it is at the time, also
6 appoint individuals who sit on something called the
7 Tobacco Commission?

8 A He does. That is a bifurcated board that's appointed
9 in part by the Governor and in part by the legislature.

10 Q Does it have approximately 31 members?

11 A There are over 30. But yeah, that sounds correct.

12 Q Is it accurate that Mr. McDonnell either appoints or
13 one of his Cabinet secretaries appoints around 20 or so of
14 those?

15 A That sounds about right, yes.

16 Q The Tobacco Commission, I know that's sort of the
17 shorthand for it, is it actually called the Virginia
18 Tobacco Indemnification and Community Revitalization
19 Commission?

20 A It is. We referred to it, the acronym is TICR.

21 Q T-I-C-R?

22 A Yes.

23 Q I'd like to show you what's been marked for
24 identification as Exhibit 93. Is this an e-mail from an
25 individual named Gerard Robinson to you, Tucker Martin,

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1 and an individual named Kim Steinhoff?

2 A It is.

3 Q Is it dated April 5th, 2011?

4 A It is.

5 Q Who is Gerard Robinson?

6 A Gerard Robinson at the time was Secretary of
7 Education.

8 Q Who was Kim Steinhoff?

9 A Kim was my executive assistant.

10 MR. FAULCONER: We would offer Exhibit 93 into
11 evidence.

12 THE COURT: 93?

13 MR. FAULCONER: Yes, 93.

14 THE COURT: All right. It will be admitted.

15 BY MR. FAULCONER:

16 Q Now, Mr. Kent, could you explain just in general
17 terms what this e-mail is asking for from Gerard Robinson
18 to you?

19 A It appears that Gerard was asking whether or not the
20 Governor was interested in writing a letter of support to
21 the Tobacco Commission for an application for the Virginia
22 Early Childhood Foundation.

23 Q If we could turn to the second page of the
24 attachment. Is that actually a draft letter that was sent
25 over to you?

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1 A It appears to be, yes.

2 Q We can take that down. Now, Mr. Kent, in your
3 experience, when interacting with state agencies, your
4 experience as Chief of Staff, if Mr. McDonnell encouraged
5 somebody else in state government to do something, would
6 it typically help or hurt the process?

7 A I would say it helped the process. Definitely helped
8 the process.

9 Q All right. Now, before we get to Mr. Williams and
10 Star Scientific, I just have a couple questions about some
11 things that came up before that. Now, before Mr. Williams
12 or Star Scientific entered the picture, can you tell us
13 whether you ever saw a company associated with
14 Ms. McDonnell try to use Mr. McDonnell's image to promote
15 a product?

16 A Yes. We had a situation, it was either just before
17 or just after the Governor had left the Attorney General's
18 Office to run for Governor, where a company, my
19 recollection is a company tried to use his likeness to
20 promote their product, and it came to mine and Jasen
21 Eige's attention. Jasen was also at the Attorney
22 General's Office at the time. It came to our attention
23 through our Consumer Affairs Division at the Office of the
24 Attorney General.

25 Q After that came to your attention, did you speak to

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1 Mr. McDonnell about it?

2 A We did.

3 Q Could you tell us how that conversation went?

4 A I believe the Governor had just left to run. I think
5 I'm right on that. And we brought it to his attention and
6 asked if he had ever authorized that. And my recollection
7 is he said he had not. And we asked what he wanted us to
8 do about it. He said to handle it as we would in the
9 normal course, which would mean that the Attorney
10 General's Office, if it was fraudulent or done without the
11 other person's authorization, then we could take certain
12 action on their behalf. And so Jasen and myself, we
13 reached out to the company and said, "You have used a
14 likeness of the Attorney General," at that time, former
15 Attorney General, "and it was unauthorized. And if you
16 fail to take that down, then we will pursue legal action
17 to do so."

18 Q Now, earlier you said that you worked for
19 Mr. McDonnell, and I think you were sort of just alluding
20 to it, not only when he was Governor but also when he was
21 Attorney General, right?

22 A I did. That's correct.

23 Q Before Mr. McDonnell ran for Governor, did you know
24 who Jonnie Williams was?

25 A I do not recall ever hearing the name Jonnie Williams

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1 when he was Attorney General. But candidly, I was not
2 involved in the political operation of the Attorney
3 General's Office. I had been at the Attorney General's
4 Office since 2001, so I started out as a career Assistant
5 Attorney General and worked my way up through the office.
6 But no, I had not heard that name before.

7 Q Before Mr. McDonnell ran for Governor, did you know
8 anything about Star Scientific?

9 A No, I did not.

10 Q Before he ran for Governor, did you know anything
11 about Anatabloc?

12 A I did not.

13 Q Before the investigation into Mr. McDonnell's
14 relationship to Mr. Williams sort of broke in the media,
15 had you ever heard Mr. McDonnell refer to Mr. Williams as
16 a longtime friend?

17 A No. We had never discussed it.

18 Q And in fact, before sometime in 2011, do you actually
19 have any specific recollection of meeting Mr. Williams in
20 person?

21 A I did not. I have only met Mr. Williams one time.

22 Q All right. Let's focus in on late July of 2011. I'd
23 like to show you what's been already admitted into
24 evidence as Exhibit 180. Now, do you recognize what type
25 of e-mail this is? From Katherine Harris, attaching RFM

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1 schedule.

2 A It appears to be part of the Governor's daily
3 schedule.

4 Q Was it common for Ms. Harris to send these out to
5 everybody on the staff?

6 A She sent them out. She actually had two schedules.
7 She had one schedule that was more detailed that went out
8 to sort of the senior leadership in the office, and a less
9 detailed version that went out to others in the office.

10 Q I'd like to turn to the sixth page of this document.
11 All right, do you see there at 11:30 p.m., sort of at the
12 end of that day's schedule, where it says, "Home of Jonnie
13 Williams"?

14 A I do.

15 Q Do you recall Mr. McDonnell and his family
16 vacationing at Mr. Williams' home at Smith Mountain Lake
17 in this time frame of late July, 2011?

18 A I do.

19 Q We can take that down. Leave it up for a second,
20 sorry. At the time of this trip, were you aware that
21 Mr. Williams had gone on a shopping trip with
22 Ms. McDonnell in New York City in April of 2011?

23 A I was not.

24 Q At the time of this trip in late July, were you aware
25 of any loan from Mr. Williams to Mr. or Ms. McDonnell in

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1 May of 2011?

2 A I was not.

3 Q At the time of this trip, were you aware that
4 Mr. Williams had paid more than \$2,300 for Mr. McDonnell
5 and his sons to play golf at Kinloch Golf Club in May of
6 2011?

7 A I was not.

8 Q I'd like to turn to Page 10 of this document. There
9 at the bottom where it says, "Depart for Executive
10 Mansion," what time does it say on this schedule that
11 Mr. McDonnell was scheduled to leave Smith Mountain Lake
12 for the Executive Mansion?

13 A It appears to be 7:00 to 7:30 p.m.

14 Q We can take that down. Now, before the McDonnells
15 went on this trip, did you know anything about
16 Mr. McDonnell potentially driving Mr. Williams' Ferrari on
17 that trip?

18 A I did.

19 Q Sorry?

20 A I'm sorry, before or after?

21 Q Before.

22 A Before, no. Sorry, I did not.

23 Q Can you tell us whether, I think we have heard some
24 about it, Mr. McDonnell would usually drive himself
25 around?

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1 A No, the protocol once you become Governor is that the
2 Executive Protection Unit will transport the Governor and
3 the spouse wherever they need to go during their term as
4 Governor.

5 Q Now, after they got back from the trip to Smith
6 Mountain Lake, did you learn about Mr. McDonnell driving
7 Mr. Williams' Ferrari?

8 A I did.

9 Q Can you tell us a little bit about how you learned
10 about that?

11 A It was probably a week or so, the following week
12 after he had returned, and the Executive Protection Unit's
13 office, I mentioned previously, sort of the layout of the
14 office, the Governor's Office and my office, my assistant,
15 his assistant, are in what is referred to as the pod. It
16 is sort of a self-contained unit that's within the Patrick
17 Henry Building. Immediately outside of that pod, that
18 door to the pod, is the Executive Protection Unit's
19 office. And there was someone, I'm sure I passed him
20 going in and out of the hallway, and someone from the
21 Executive Protection Unit, I believe, brought to my
22 attention what had happened. And it had had an effect on
23 some of the members of the Unit.

24 Q What do you mean by that?

25 A I think it had hurt morale. You know, their primary

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1 job is to protect. And I think from their perspective,
2 they couldn't protect him if he is driving a vehicle and
3 they are behind him in their own vehicle.

4 Q After the Executive Protection Unit, somebody in the
5 Unit, talked to you about this, did you talk to
6 Mr. McDonnell about it?

7 A I did.

8 Q What did you say?

9 A I went into his office and told him that I understood
10 that he had driven a sports car, I'm not sure at the time
11 I knew it was a Ferrari, but that he had driven a sports
12 car. And I reminded the Governor what the job was or the
13 duty of the Executive Protection Unit, and I told him that
14 it had had an impact on the morale of some members of the
15 Unit, which was very important, and I asked him not to do
16 it again.

17 Q Do you recall what if anything he said or did in
18 response?

19 A He didn't say a lot. I don't recall there was any
20 specific -- he just sort of listened.

21 Q Do you recall any sort of physical reaction or facial
22 reaction from him?

23 A Yeah, I think he might have smiled when I asked about
24 the sports car. But, you know, there wasn't a lot of
25 communication. He heard me. He listened to what I said

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1 and didn't really push back in any way.

2 Q All right. I'd like to hand up, with the assistance
3 of the Court Security Officer, what's been marked for
4 identification as Exhibit 183. This is a 21-page
5 document, Exhibit 183. Have you had a chance to review
6 this before coming in to testify here today?

7 A I have.

8 Q And are each of those 21 pages a photograph?

9 A They appear to be, yes.

10 Q Do you recognize what individual is in each one of
11 those photographs?

12 A It appears to be Governor McDonnell.

13 MR. FAULCONER: We would offer Exhibit 183 into
14 evidence.

15 THE COURT: It will be admitted.

16 MR. FAULCONER: Your Honor, if we could just
17 have, with the assistance of Mr. Starnes, just flip
18 through each page briefly so the jury can see it?

19 THE COURT: All right.

20 (Documents displayed to jury.)

21 BY MR. FAULCONER:

22 Q All right, we can take that down. Now, earlier we
23 looked at a schedule that said that they left Smith
24 Mountain Lake at 7 p.m., or at least were scheduled to.

25 A Correct.

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1 Q I'd like to show you what's already been entered as
2 Exhibit 189. Zooming in on the bottom e-mail, or on both
3 e-mails here, do you see the bottom e-mail dated July
4 31st, 2011 at 11:29 p.m.?

5 A I do.

6 Q Mr. Kent, were you copied on either of these e-mails
7 that were sent between Dr. Hazel and Mr. McDonnell?

8 A I was not.

9 Q At the time of this e-mail, did you know about this
10 meeting that Mr. McDonnell was contacting Dr. Hazel about?

11 A I did not.

12 Q We can take that down. I'd like to move forward two
13 weeks to August 16th of 2011. I'd like to show you what's
14 been marked for identification as Exhibit 635.

15 MR. ASBILL: I object to this unless it is
16 redacted. Same problem we had before.

17 MR. FAULCONER: Could I lay a couple of
18 foundation questions and then we can approach to discuss
19 it?

20 THE COURT: We will deal with the redaction
21 before it is published to anybody. Go ahead.

22 BY MR. FAULCONER:

23 Q Mr. Kent, is this a document with your handwriting on
24 it?

25 A It does appear to be my handwriting, yes.

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1 Q Is it a printout of an e-mail dated August 16th,
2 2011?

3 A It does appear to be, yes.

4 Q After you wrote what you wrote in your handwriting on
5 this e-mail, can you tell the members of the jury what you
6 believe you did with this document?

7 A Typically, what I would do when there was handwriting
8 on a document for the Governor's attention, as I mentioned
9 previously, my office was adjoining his in what we
10 referred to as the pod. I would usually take whatever it
11 was that I had written on and place it on his desk in his
12 office.

13 Q Do you believe that you either did that or handed it
14 to him personally with this document?

15 A I can't remember with absolute certainty that I did
16 that, but that was certainly normally what I would do,
17 yes.

18 MR. FAULCONER: May we approach briefly?

19 THE COURT: Come on up.

20 (At Bench.)

21 MR. FAULCONER: Your Honor, now that we have
22 laid the foundation, he believes he gave this document to
23 the Governor. We would ask that it be entered into
24 evidence unredacted.

25 THE COURT: All right.

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1 MR. ASBILL: This is the same document we dealt
2 with before that references the Attorney General's opinion
3 and summarizes it at the bottom of the e-mail and attaches
4 the opinion to it.

5 MR. FAULCONER: Your Honor, as we understand it,
6 previously we said although it was obvious from the
7 document that it was intended to be given to the Governor,
8 we didn't previously lay a foundation that it was written
9 on by Mr. Kent, and his normal course would be to hand it
10 to the Governor or place it on his desk. We offer it for
11 the fact that it was given to Mr. McDonnell but not for
12 the substance.

13 THE COURT: You have established that this is
14 what he would normally have done. We haven't established
15 that he did. Which I think is --

16 MR. FAULCONER: Doesn't that go to weight, Your
17 Honor?

18 THE COURT: I agree with Mr. Asbill on this.
19 Unless we've got some direct testimony that he has this,
20 I'm not going to enter this into evidence.

21 MR. DRY: One more fact. That document was
22 produced by the defendant in the Statement of Economic
23 Interests, the draft. So he got it. He produced it to
24 us.

25 MR. FAULCONER: It was mixed in with the other

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1 pages of the SOEI.

2 MR. ASBILL: We produced what we had. That
3 doesn't mean he saw it or read it. We produced what was
4 in the Governor's files at their request.

5 MR. FAULCONER: If the question is whether or
6 not he received it, if he produced it, then we know for
7 certainty he received it. How closely he read it is a
8 matter of weight.

9 THE COURT: The objection is overruled.

10 (In Open Court.)

11 MR. FAULCONER: Could we publish this document
12 to the jury?

13 THE COURT: Go ahead.

14 MR. FAULCONER: I assume this is admitted into
15 evidence now?

16 THE COURT: It will be admitted.

17 BY MR. FAULCONER:

18 Q Mr. Kent, could you read what you write in your
19 handwriting on this document?

20 A Dated 8-16-11. "Governor: FYI. As you can see, I
21 have asked for written guidance on this and other issues.
22 Thanks." Those are my initials.

23 Q Is that MLK?

24 A MLK, yes.

25 Q Then "P.S.," what do you write there?

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1 A "P.S., issued by Mary Sue Terry as Attorney General,
2 AG."

3 Q If we could zoom out on this document. The e-mail
4 you actually print out here, what's the subject line of
5 the e-mail?

6 A It says: "COIA, Personal Friend."

7 Q Do you recall having had some conversation with
8 Mr. McDonnell leading up to this time frame about the
9 definition of a personal friend?

10 A Vaguely. I must have had some conversation, which is
11 why I would have assumed that I would have given this to
12 the Governor, yes.

13 Q If we could scroll down, was there actually a part of
14 this document that you underlined before you took it in to
15 the Governor's Office?

16 A It appears it is underlined. That could very well
17 have been my underlining.

18 Q Read what's underlined on that document.

19 A It says: "When the circumstances suggest a
20 relationship between the gift and the declarant's public
21 position, even when the relationship is relatively
22 distant, it is my opinion that the gift is required to be
23 disclosed in Schedule E."

24 Q It says "Schedule E" there. Is this referring to the
25 Statement of Economic Interests?

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1 A I believe it is, yes.

2 Q We can take that down. I'd like to show you what's
3 been marked for identification as Exhibit 206. Mr. Kent,
4 is this an e-mail chain that is essentially a later set of
5 e-mails in this same thread of e-mail conversation?

6 A It appears to be, yes.

7 Q And is it between you and Jasen Eige?

8 A It is.

9 MR. FAULCONER: We would offer Exhibit 206 into
10 evidence.

11 THE COURT: It will be admitted.

12 BY MR. FAULCONER:

13 Q Now, first, looking, if we could zoom out a little
14 bit, and looking at Page 1 down at the bottom, do you see
15 there the e-mail, Tuesday, August 16th, 2011 at 10:18
16 a.m.?

17 A I do.

18 Q Could you read to us what you write to Jasen Eige?

19 A It says: "I talked to the Governor about it
20 yesterday. Prompted this follow-up."

21 Q Then turning to the next page, do you see in the
22 e-mail that preceded that that Mr. Eige wrote to you,
23 "This is the standard we have been using, no bright line,
24 but you and I need to discuss the matter we talked to JK
25 about." Did I read that right?

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1 A You did.

2 Q Based on your review of this e-mail, who do you
3 believe that JK is referring to here?

4 A I believe that was Jerry Kilgore.

5 Q Now, Jerry Kilgore, did both you and Mr. Eige know
6 Mr. Kilgore?

7 A We did. We both worked for him when he was Attorney
8 General.

9 Q Did you interact with him being a lobbyist on a
10 number of different issues?

11 A We did. I probably did less than Jasen, because that
12 was Jasen Eige's primary role, but sure, we did.

13 Q During this time frame, that being August of 2011,
14 did you know at some point that month that Mr. Kilgore
15 represented Jonnie Williams and Star Scientific?

16 A I did.

17 Q Did you also interact, to be clear, with Mr. Kilgore
18 on some other issues on something related to something
19 involving a bank?

20 A I did, and it was all in that same time frame.

21 Q Was that Bank of Mellon?

22 A That's correct.

23 Q Sitting here today, can you specifically recall the
24 conversation that Mr. Eige is referring to here?

25 A I can't. I have struggled to try to recall exactly

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1 what that is, and the best I can think of, because there
2 were two separate issues that involved Jerry Kilgore, that
3 we were potentially conflating two issues in the same
4 e-mail. That's the best I can come up with.

5 Q Just to be clear, when you would interact with
6 Mr. Kilgore or any other lobbyist, was it common to have
7 conversations that would start on one topic and go on to
8 another?

9 A Particularly with lobbyists, they try to get as many
10 issues as they could so they could bill as many clients as
11 possible.

12 Q Take that down. Regardless of the specifics of that
13 e-mail chain, when you wrote those e-mails on August 16th,
14 2011, were you aware that Mr. McDonnell and one of his
15 sons had been out to Kinloch Golf Club again on August
16 13th and spent more than \$800 on Mr. Williams' account?

17 A I was not.

18 Q I'd like to move forward in time a little bit and go
19 to late August of 2011. I'd like to show you what's been
20 entered into evidence as Exhibit 230.

21 MR. FAULCONER: For identification as Exhibit
22 230, Your Honor.

23 THE COURT: All right.

24 BY MR. FAULCONER:

25 Q Mr. Kent, do you recognize this as a regular daily

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1 schedule for Mr. McDonnell?

2 A It appears to be, yes.

3 Q Is it dated August 30th, 2011?

4 A It is.

5 MR. FAULCONER: We would offer Exhibit 230 into
6 evidence.

7 THE COURT: It will be admitted.

8 BY MR. FAULCONER:

9 Q Before we sort of walk through this document in a
10 little bit of detail, can you tell us whether late August
11 of 2011 was a busy time for you and the Governor's Office?

12 A I believe it was probably one of the busiest times of
13 the four years we were in office. As those I'm sure in
14 the room can recall, within a one-week span, we had an
15 earthquake, a sizeable earthquake in Louisa County; we had
16 a major hurricane, one of the most devastating hurricanes
17 that Virginia has had come up its east coast; and there
18 were fires in the Great Dismal Swamp and the Chesapeake
19 area which were affecting traffic up and down the
20 interstate in Virginia as far west as the Richmond area.

21 Q So in that time frame, could you tell us what the
22 first thing is on Mr. McDonnell's schedule at 8:20 a.m.
23 that day?

24 A Says depart for the helipad.

25 Q Then that interview there, can you tell us what that

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1 interview generally would have been?

2 A There are two radio stations in Virginia, AM radio
3 stations, which have what we call a monthly Ask The
4 Governor. It is WRVA in Richmond, and WTOP, which is in
5 Northern Virginia. And typically, once a month, the
6 Governor will do both radio shows. But this appears to be
7 an interview with Jimmy Barrett, the host of WRVA,
8 specifically about the hurricane, Hurricane Irene.

9 Q Now, going down past the travel to the next item that
10 looks like reference is WTOP, that radio station you just
11 referenced, in that 9:30 to ten time frame, if we could
12 scroll down just a little bit. Then actually at 10 to 11
13 where it actually has the show itself, could you tell us
14 what it says there under "Note"?

15 A It says, "Note: Governor O'Malley is scheduled to
16 call into the show regarding Hurricane Irene."

17 Q Do you recall which state Governor O'Malley is from?

18 A The Governor of Maryland.

19 Q At the top of the second page of this document, can
20 you tell us what travel is listed there at the top?

21 A At the very top, "11:30 a.m. to 12:30 p.m., Helo from
22 Northern Virginia to Richmond."

23 Q Then what is listed from 12:35 to 1:30 p.m.?

24 A From 12:35 to 1:30 p.m., it says, "Lunch with
25 Virginia researchers-Executive Mansion."

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1 Q Do you see there the two little icons? It looks like
2 a Word document and an Excel document?

3 A I do.

4 Q Can you tell us what significance those have in terms
5 of what those documents would typically be?

6 A Typically, the scheduler will attach supporting
7 documentation to the Governor's calendar. It could be a
8 list of attendees, it could be the request, the original
9 request for the event, and it could also be talking points
10 the Governor may or may not use at that event.

11 Q When they were attached to the schedule, would they
12 ultimately be printed out and given to Mr. McDonnell?

13 A They would, yes.

14 Q Do you recall seeing him carry those documents around
15 at times?

16 A He had what we referred to as The Notebook, and it
17 was a black binder which contained his daily schedule.

18 Q To be clear, Mr. Kent, you said this was a busy time,
19 and we have seen entries about the hurricane. Did
20 Mr. McDonnell have the authority to remove things from his
21 schedule?

22 A He did.

23 Q To your knowledge, did he remove this event from
24 12:35 to 1:30 p.m. from his schedule that day?

25 A To my knowledge, he did not.

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1 Q I'd like to show you what's been marked for
2 identification as Exhibit 231. Do you recognize this as
3 what looks like an Outlook calendar entry for that lunch
4 with Virginia researchers?

5 A It appears to be.

6 Q Do those icons in this document appear to match the
7 icons we were just looking at?

8 A I believe so.

9 MR. FAULCONER: We would offer Exhibit 231 into
10 evidence.

11 THE COURT: It will be admitted.

12 BY MR. FAULCONER:

13 Q All right, now, if we could zoom out and go to the
14 second page. Does that appear to be that Event Briefing
15 Form that you were talking about?

16 A It appears to be a briefing form, and it looks to be
17 lunch with researchers and doctors, yes.

18 Q Now, the handwriting towards the bottom of that page,
19 if we could just zoom in on that sort of box right there.
20 Could you tell us whether you recognize that handwriting?

21 A That appears to be the Governor's handwriting.

22 Q Could you tell us below the handwriting what name has
23 an asterisk next to it?

24 A John Clore.

25 Q At that time, did you know who John Clore was?

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1 A I did not.

2 Q If we could turn to the second page. Do you
3 recognize the handwriting that's on this page?

4 A I do.

5 Q And whose is it?

6 A It appears to be the Governor's.

7 Q Could you walk us through what names have an asterisk
8 or handwriting by them on this page?

9 A Jasen Eige, Office of the Governor has an asterisk.
10 John Lazo has an asterisk next to it. Then there is
11 handwriting next to a name, Diane Roskamp. Then
12 handwriting next to a name that says Bob Roskamp. And
13 then there is handwriting next to the name Mary-Shea
14 Sutherland.

15 Q We can go ahead and take that down. Taking a step
16 back from the schedule and briefing form, did you actually
17 attend this event at the Mansion?

18 A I did not.

19 Q Do you recall some conversation and e-mail traffic
20 about a press release before the event occurred?

21 A The night before, yes.

22 Q I'd like to show you what's been marked for
23 identification as Exhibit 223. Is this an e-mail from
24 Tucker Martin to you and other Governor's Office staff
25 members attaching a draft press release?

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1 A It appears to be, yes.

2 Q Is it dated August 29th, 2011?

3 A It is.

4 MR. FAULCONER: We would offer Exhibit 223 into
5 evidence.

6 THE COURT: It will be admitted.

7 BY MR. FAULCONER:

8 Q All right. Now, in that e-mail at the top, that's
9 from Tucker Martin, right?

10 A It is.

11 Q Now, if we could turn to the third page of this
12 document. Does that look like the draft press release
13 that you received?

14 A I believe it is, yes.

15 Q Could you read what it says in the first sentence of
16 the fourth paragraph?

17 A "The Governor of the Commonwealth of Virginia, Robert
18 McDonnell, and First Lady Maureen McDonnell, are joining
19 with a group of physicians and healthcare providers in the
20 Richmond area today to learn more about the state of the
21 research."

22 Q Then could you read the sentence there sort of a
23 little ways down that starts with "Jonnie R. Williams"?

24 A "Jonnie R. Williams, Star Scientific CEO, expressed
25 his appreciation for Governor and First Lady McDonnell's

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1 interest in the company's work. 'All of us at Star and
2 Rock Creek are very grateful to the Governor and
3 Ms. McDonnell for their interest in our research and
4 product development.' "

5 Q Mr. McDonnell -- Mr. Kent, what was your reaction to
6 this press release when you saw it?

7 A Well, if I could step back just a second and sort of
8 put it in context. I had mentioned that there were
9 literally three natural disasters that were ongoing the
10 week prior and the weekend before this. To make matters
11 more complicated, I actually was on my family vacation the
12 preceding week, actually had to leave my family vacation a
13 day early, partly due to the hurricane and partly because
14 of what had happened here in Richmond, to come back. So
15 the weekend leading up to this, to say it was busy is an
16 understatement. We were, I believe, at the Emergency
17 Operations Center, the Governor was as well, senior
18 members of the Administration, the Secretary of Public
19 Safety. We had lost several lives in the hurricane that
20 took place. There was a lot of wind, a lot of wind
21 damage, a lot of trees had fallen, and several people died
22 as a result of trees actually falling either on their
23 house or their car. So there was a lot going on.

24 I had just come back from my vacation. We were
25 dealing with the natural disasters that had occurred, and

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1 then that evening, the first full workday back from my
2 vacation, is when we received this e-mail. And when I
3 received the e-mail from Tucker -- actually, it was sent,
4 if I am not mistaken, it was sent by Mary-Shea to Tucker,
5 and then Tucker replied to all and included Jasen Eige and
6 myself on the response. And when we saw the e-mail, I
7 read the attachment, I believe I responded to Mary-Shea,
8 "What is this, when is this, is the Governor aware of his
9 inclusion in this," something to that effect. I don't
10 recall specific conversation with her, although I'm sure I
11 probably had some conversation to try to get more
12 information about it. And I believe I immediately went to
13 go see Jasen Eige about it at well.

14 Q Why did you immediately go to see Mr. Eige?

15 A Because I was concerned at first, the way this looked
16 to me to be a press release, the way it was worded. And,
17 you know, I think it struck me as the press release and
18 what it appeared to be, I'm assuming I got this from
19 Mary-Shea because I didn't really talk to anybody else
20 about it, would appear to be an effort to actually hold a
21 press conference at the Mansion with regard to this. And
22 that struck me as unusual.

23 Q You were talking a little bit about your reaction.

24 If we could go to the first page, could you tell us sort
25 of at the bottom of that page, Mary-Shea Sutherland, could

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1 you tell us what she wrote in that e-mail lower in the
2 thread?

3 A It says: "I just sent David a message - NO WAY this
4 can go as written. You can call me," and it gives a
5 number.

6 Q If we scroll up a little bit. Can you tell us one
7 more e-mail past, can you tell us, you might have already
8 said this, but who forwarded it to Tucker Martin?

9 A It appears that she did, yes.

10 Q All right. I'd like to show you what's already been
11 entered as Exhibit 224. Zoom in on that top e-mail. Is
12 that the response back to Mary-Shea that you referenced
13 just a moment ago?

14 A It is.

15 Q I'd like to show you what's been marked for
16 identification as Exhibit 226. Zooming in on that top
17 e-mail, is this Mary-Shea Sutherland's response to you?

18 A It appears to be, yes.

19 Q Is that also dated August 29th, 2011?

20 A It is.

21 MR. FAULCONER: We would offer Exhibit 226 into
22 evidence.

23 THE COURT: It will be admitted.

24 BY MR. FAULCONER:

25 Q Mr. Kent, could you just read for us that one-line

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1 response from Mary-Shea Sutherland?

2 A It says, "I didn't know about release until an hour
3 ago. Call me when you can."

4 Q We can take that down. Now, after you went and spoke
5 to Mr. Eige, can you sort of walk us through what happened
6 in the process after that?

7 A We talked about it, he agreed that it was unusual,
8 and we were concerned about the way it was worded. And I
9 believe he was the one that was aware of the fact that
10 Jerry Kilgore represented, I believe represented
11 Mr. Williams. And we got on the phone immediately -- my
12 recollection is we got on the phone immediately and spoke
13 with Jerry Kilgore about it.

14 Q How did that conversation go?

15 A It went well. My recollection is we explained to
16 Jerry what we had received and that we had some concerns,
17 and my recollection is, he understood and agreed with
18 those concerns and told us that he would address it with
19 his client.

20 Q Now, after talking to Mr. Kilgore, do you recall
21 whether either you or Mr. Eige decided to attend the
22 event?

23 A Yes. As I mentioned, I had just returned from my
24 vacation, we were still in the midst of dealing with the
25 natural disasters that had taken place or were taking

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1 place. And that was one of my many roles, was to
2 basically coordinate that with the Secretary of Public
3 Safety's office in the event of a natural disaster to make
4 sure the Governor was issuing executive orders, emergency
5 declarations, things of that nature that a Governor would
6 typically do. And Jasen and I discussed it and we agreed
7 someone should go to make sure what we had discussed with
8 Jerry was actually done. And Jasen, his role didn't
9 require that involvement in the natural disaster process,
10 so he agreed to go.

11 Q To be clear, Mr. Kent, at that point, on August 29th,
12 2011, were you aware of the things of value that had been
13 provided by Mr. Williams to the McDonnells?

14 A I was not.

15 Q Now, after the event, did you become aware of how the
16 event was paid for?

17 A At some point, I don't remember exactly when, I have
18 tried to go back and piece that together. I'm not sure
19 there is any documentation to help with that. But at some
20 point I learned that the Governor's PAC had paid for that
21 event.

22 Q Just to be clear, do you remember any of that
23 conversation happening before the event or was it after?

24 A No, I don't recall it. It couldn't have happened
25 before because I don't believe I knew about the event

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1 until the night before, so I think it had to have happened
2 after the event.

3 Q To be clear, do you recall having any conversations
4 with Mr. McDonnell about the PAC paying for the event?

5 A I do not recall that, no.

6 Q All right. I'd like to move forward to September of
7 2011, a few weeks later. I'd like to show you what's been
8 marked or what's already been entered as Exhibit 245. Is
9 this an e-mail exchange with you, Katherine Harris, and
10 Jasen Eige?

11 A Yes, it is.

12 Q If we could scroll down to see the first e-mail in
13 the exchange. Katherine Harris is the scheduler; is that
14 correct?

15 A That's correct.

16 Q Scrolling back up again, do you recall getting this
17 e-mail forwarded from Katherine Harris to you and Mr. Eige
18 asking about a dinner related to Anatabloc in October of
19 2011?

20 A I do.

21 Q Can you tell us what happened once you got this
22 e-mail?

23 A She forwarded it to myself and Jasen, it looks like,
24 about 11 a.m. on the 21st, and it looks like I responded
25 back to her at 2:22 p.m. on the same day and basically

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1 said, "Yes, we should discuss." I do recall this. And
2 one of the parameters we talked a few moments ago about
3 the Governor attending events generally, one of the
4 factors that we look at is, has the Governor recently done
5 something with this person or something for this industry.
6 And I believe, I saw this, recalled the event that had
7 occurred three weeks prior, and I believe I told
8 Ms. Harris that we did not need to schedule the Governor
9 for this.

10 Q All right. I'd like to move to 2012. Now, earlier
11 we saw a little bit of e-mail traffic about the SOEI or
12 Statement of Economic Interests. Are you aware of when
13 each year that document would typically be filed?

14 A I believe it has to be filed by the 15th of January
15 for the preceding year.

16 Q And in January of 2012, were you aware that
17 Mr. McDonnell and his sons played golf at Kinloch on
18 Mr. Williams' tab on January 7th, 2012?

19 A I was not.

20 Q I'd like to move forward to February of 2012 and show
21 you what's been entered into evidence as Exhibit 319.
22 Now, is this an e-mail forward from Mr. Eige to you on
23 February 17th, 2012 at 12:06 a.m.?

24 A It appears to be, yes.

25 Q It looks like Mr. Eige says "FYI" there.

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1 A Yes.

2 Q Do you recall ever discussing this e-mail with
3 Mr. McDonnell?

4 A No. And I actually, when this was brought to my
5 attention last year, I actually went first to Mr. Eige, to
6 Jasen, and asked him if we had ever discussed this,
7 because I did not recall this e-mail. And he informed me
8 that he did not recall we had ever discussed it. So, you
9 know, I'm not sure, given the time of day, although it was
10 not unusual to get e-mails all throughout the night, it
11 could have been that I just simply didn't see it, didn't
12 focus on it at the time.

13 Q So sitting here today, do you have any specific
14 recollection of any conversation with either Mr. McDonnell
15 or Mr. Eige about this e-mail?

16 A I do not, no.

17 Q I'd like to ask you one quick question about this,
18 which is, do you see there where it says,
19 "rfmva09@gmail.com"?

20 A Yes, I do.

21 Q Was that a common e-mail address for Mr. McDonnell to
22 use while he was Governor?

23 A It was, yes.

24 Q Even though it is a gmail address, would he typically
25 use that for things that involved official government

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1 business?

2 A Yes. He had at one point in time, I think we started
3 out with a BlackBerry, and then ultimately migrated to an
4 iPhone. And the Governor, I think probably the only
5 person that received more e-mails than I did was probably
6 the Governor. And it got to a point, I believe the
7 Governor's aide actually did this, and we didn't discuss
8 it until afterwards, but the Governor would get so many
9 e-mails, he would receive them on the same device. He
10 would receive e-mails to his official account and e-mails
11 to a personal account, and oftentimes he would just look
12 at the e-mail and respond. And the way the BlackBerry was
13 set up, you have to actually go out and go into the
14 particular e-mail system to make sure you are responding
15 on that e-mail server, if that makes sense. And the
16 Governor would oftentimes respond to personal e-mails on
17 his state system, and respond to state e-mails on his
18 personal system. So a decision somewhere along the way
19 was made to simplify it to give him one e-mail address
20 that he used as his primary e-mail address.

21 Q You mentioned a couple different types of e-mail
22 addresses. Do you recall him during the campaign using an
23 e-mail address rfmcandidate@bobmcdonnell.com?

24 A That sounds familiar. It was on the campaign. I'm
25 not sure if I used it a lot, I didn't use it a lot. But

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1 that's possible, yes.

2 Q Once he became Governor, do you recall him using the
3 e-mail address governor@bobmcdonnell.com?

4 A Yes, he did.

5 Q That bobmcdonnell.com sort of suffix on the end of
6 the e-mail, what did that refer to?

7 A That was part of his campaign.

8 Q Was that related to the PAC?

9 A Initially it was the campaign and then ultimately I
10 think it became part of the PAC, yes.

11 Q Did he also have an official governor.virginia.gov
12 e-mail address?

13 A He did, yes.

14 Q I'd like to show you what's been entered as Exhibit
15 318. This is an e-mail, the lower one down there, that
16 was six minutes before the e-mail we just looked at. To
17 be clear, were you aware of this e-mail from Mr. McDonnell
18 to Mr. Williams on February 16th, 2012?

19 A No.

20 Q All right. I'd like to move forward a little bit
21 further into February and show you what's been marked or
22 what's been entered as Exhibit 345. Does this appear to
23 be an Outlook calendar event?

24 A It does.

25 Q Now, can you tell us, where it says "PHB Governor's

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1 conference room," what that refers to there?

2 A As I mentioned previously, what I referred to as the
3 pod, in addition to my office, the Governor's Office, and
4 our executive assistants' offices, the Governor has a
5 conference room, which is connected to his office through
6 a door. And that is what we referred to as the Governor's
7 conference room.

8 Q This particular meeting on February 29th, 2012, what
9 does it list as the topic for that meeting?

10 A "Healthcare Group Leaders Reception Tonight at the
11 Executive Mansion."

12 Q To be clear, are you listed as a participant on this
13 meeting?

14 A No.

15 Q Did you attend this meeting?

16 A No.

17 Q Is Mary-Shea Sutherland listed as a participant on
18 this meeting?

19 A No.

20 Q To your knowledge, was Mary-Shea Sutherland even
21 working at the Mansion in February of 2012?

22 A No, she was not.

23 Q Is Ms. McDonnell listed as a participant?

24 A No.

25 Q Now, are you aware of what Mr. McDonnell and

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1 Mr. Williams actually discussed in this meeting?

2 A No.

3 Q I'd like to show you what's been entered into
4 evidence as Exhibit 2. Now, this document, do you
5 recognize the handwriting that's shown on this first page
6 of this document?

7 A It appears to be the Governor's handwriting, yes.

8 Q Now, could you read for us what it says where it says
9 "File Form 4" there down the second bullet point, it looks
10 like?

11 MR. ASBILL: I object. He has no knowledge of
12 this meeting.

13 THE COURT: Overruled.

14 THE WITNESS: It says: "File Form 4 with the
15 SEC saying sold = doesn't disclose who sold to for
16 Jonnie."

17 BY MR. FAULCONER:

18 Q Mr. Kent, at the time, any time in 2012, were you
19 aware of Mr. McDonnell and Mr. Williams discussing
20 anything about this?

21 A No.

22 Q I'd like to go to Page 3 of this document. Actually,
23 Page 2 real quick. Do you recognize that handwriting?

24 A That appears to be the Governor's as well.

25 Q Turning to Page 3. Apart from the section that's

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1 between the lines, do you recognize the handwriting at the
2 top of that document and below the line at the bottom?

3 A Very top appears to be the Governor's handwriting as
4 well.

5 Q Then down below?

6 A I believe it is, yes. That appears to be his
7 handwriting.

8 Q If we could zoom back out and zoom in on that bottom
9 section, do you see where it says, "Loan of 50k shares to
10 Maureen"?

11 A I do.

12 Q Were you aware of anything about loaning shares to
13 Maureen McDonnell in this time frame?

14 A No.

15 Q All right. I'd like to go to Page 4 of this
16 document. Does this document appear to be, or do you
17 recognize the handwriting on this page?

18 A It appears to be the Governor's handwriting.

19 Q And have you had a chance to review this page of
20 handwriting before coming into Court?

21 A I have.

22 Q And any of this information that's referenced on this
23 document, were you aware of any of it in 2012?

24 A No.

25 Q I'd like to go to Page 5. Do you recognize the

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1 handwriting on this page?

2 A It appears to be the Governor's as well.

3 Q Now, do you see where it says, could you read what it
4 says there starting with "Pay back" and down to "Maureen"?

5 A "Pay back in cash at 50,000 times 1.90 =
6 \$90,000 either return or 50-70 K shares." It looks like
7 "Plan" to the left, "split into 10k shares certificates
8 for delivery to Maureen" or "son deliver to Maureen."
9 Sorry.

10 Q Do you ever recall meeting Mr. Williams' son, Jonnie
11 Williams, Jr.?

12 A No.

13 Q At this time or any time in 2012, were you aware of
14 anything involving share certificates being delivered to
15 Maureen McDonnell by Jonnie Williams, Jr.

16 A No.

17 Q Turn to Page 6 of this document. Do you recognize
18 the handwriting on this page?

19 A It appears to be the Governor's handwriting.

20 Q What's the date written there at the top?

21 A 3-12-12.

22 Q If we could turn to the seventh page. Do you
23 recognize what this seventh page of this document appears
24 to be?

25 A This appears to be another copy of the Governor's

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1 daily schedule.

2 Q Is that for March 12th of 2012?

3 A It appears to be, yes.

4 Q Now, I think we have sort of asked about it a little
5 bit, but before the investigation went public, were you
6 aware of either a \$50,000 loan or a \$20,000 loan from
7 Mr. Williams to the McDonnells in March or May of 2012?

8 A I was not.

9 Q All right. I'd like to move forward and focus on
10 February of 2013. Do you recall learning that month that
11 Ms. McDonnell was interviewed by law enforcement?

12 A I do.

13 Q And after that interview took place, do you recall
14 speaking to Mr. McDonnell about it?

15 A I do. Yes.

16 Q And do you recall how close in time that was to the
17 interview?

18 A My recollection is, it was either that day or the
19 next day. It was within 24 hours.

20 Q Could you tell the members of the jury what
21 Mr. McDonnell's reaction was to that interview when he
22 discussed it with you?

23 A I can. I should explain sort of how I was involved
24 in this. I was contacted because I was the closest to the
25 Governor as far as staff is concerned, to --

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1 Q Sorry to interrupt, Mr. Kent, but just to make sure
2 we don't get into any problems with who said what to whom,
3 could you just focus in on what Mr. McDonnell's reaction
4 was and what he said after the interview?

5 A Yes. He was upset. He was upset, and basically said
6 that the interview was not what it was purported to be
7 for.

8 Q Did he describe at all what he meant in terms of what
9 the difference was?

10 A No. We didn't get into a lot of back and forth. It
11 was a pretty short conversation. But he was visibly
12 upset.

13 Q Do you recall whether he said whether it was broader
14 or narrower than he thought it was going to be?

15 A Broader, was the indication I got.

16 Q Just to be clear, at that time, when you were talking
17 about the interview that Ms. McDonnell had with law
18 enforcement, did Mr. McDonnell tell you anything about a
19 \$50,000 loan from Mr. Williams in May of 2011?

20 A No.

21 Q Did he tell you anything about a \$15,000 payment for
22 a wedding?

23 A No.

24 Q Anything about a \$50,000 second loan?

25 A No.

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1 Q Anything about a \$20,000 third loan?

2 A No.

3 Q Anything about any of the golf at Kinloch?

4 A No.

5 Q Now, before, at some point before the press stories
6 broke, do you recall Mary-Shea Sutherland saying something
7 about credit card debt to you as it related to
8 Mr. Williams?

9 A She did. It was, it had to be sometime before she
10 had left, during a general conversation that we had. And
11 there was some reference to credit card debt.

12 Q Could you explain exactly what that was as it related
13 to Mr. Williams?

14 A It was unclear at the time. At that time, there
15 were, I'm assuming that's when it was, Mary-Shea had been
16 to my office several times just upset in general about her
17 situation. And she did reference that. There was some
18 vague reference to credit card debt, and I believe she
19 mentioned Maureen at the time when she said it.

20 Q Did she mention something about Mr. Williams in that
21 context?

22 A Yeah, I think she did. It was, again, sort of not
23 something we spent a lot of time harping on. It kind of
24 was out of sight, out of mind for several years.

25 Q And did she tell you anything in that conversation

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1 about what amount of credit card debt she was talking
2 about?

3 A I recall her mentioning, I believe, \$20,000. That
4 sounds right.

5 Q Now, after the press stories broke about the
6 investigation or any of the press stories about the
7 relationship between Mr. Williams and Mr. McDonnell, did
8 you ask Mr. McDonnell about whether a loan from
9 Mr. Williams had anything to do with credit card debt?

10 A I did. It was sometime, probably early spring of
11 last year, and he corrected me quickly and said that, "No,
12 that was a loan." And that was really the extent of the
13 conversation we had.

14 Q Did he tell you whether the loan had anything to do
15 with credit card debt?

16 A Well, I think I brought up the question of credit
17 card debt, and he responded that, "No, that was a loan."
18 My recollection is, that was pretty much the extent of the
19 conversation.

20 Q Did you also have a conversation or during the
21 conversations that you had with Mr. McDonnell after the
22 press stories broke, did you ever talk to him about the
23 second \$50,000 loan from Mr. Williams in May -- March of
24 2012?

25 A No. At some point he mentioned to me, it was during

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1 the process of obviously he had, I believe, retained
2 counsel, and we were being inundated with requests on a
3 daily, sometimes hourly basis, by the media. And at some
4 point I went into his office and asked, I believe, about,
5 generally about the loan or the loans. And his response
6 to me was that it was a matter that he was discussing with
7 his counsel and we shouldn't get into it any further.

8 MR. FAULCONER: One moment, Your Honor.

9 (Counsel conferring with co-counsel.)

10 MR. FAULCONER: No further questions at this
11 time, Your Honor.

12 THE COURT: Cross?

13 CROSS-EXAMINATION

14 BY MR. ASBILL:

15 Q Good morning, Mr. Kent. How are you?

16 A Just fine.

17 Q I want to go back a little bit to the beginning of
18 your examination, of your direct examination. And you
19 told us you went to the University of Richmond and then to
20 Mercer Law School; is that right?

21 A Yes, sir, that's correct.

22 Q You were at one point obviously the Chief of Staff to
23 my client, correct?

24 A That is correct, yes, sir.

25 Q Prior to that you were at the Attorney General's

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1 Office?

2 A Yes, sir.

3 Q And was one of your assignments at the Attorney
4 General's Office heading the Criminal Division?

5 A At one point I was in charge of what was referred to
6 as the Special Prosecutions Section, which was a subset of
7 the Criminal Division. I was never the Deputy of the
8 Criminal Division, but I was the Chief of the Special
9 Prosecutions Section.

10 Q Okay. That was one of your many jobs at the Attorney
11 General's Office before you came over to the Governor's
12 Office; is that correct?

13 A Yes, sir, it is.

14 Q Okay. I believe you testified early on this morning
15 that if my client said to you to do something, that you
16 would absolutely do it. Is that correct?

17 A Yes, sir.

18 Q And obviously, that would not include doing something
19 that you thought was wrong or improper or unethical or
20 immoral, right?

21 A Absolutely not.

22 Q So if he asked you to do something that you thought
23 was a legitimate request, you would obviously do it.

24 A That's what I was referring to, yes, sir.

25 Q To your recollection, in all the time that you spent

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1 with my client, in the Governor's Office, Attorney
2 General's Office, did he ever ask you to do something that
3 you didn't do because you thought it was wrong to do it?

4 A No, sir.

5 Q Now, I think you talked a little bit about Dr. Hazel
6 and Molly Huffstetler. Both of those people are part of
7 the Governor's staff; is that right?

8 A They are part of the Secretariat which ultimately
9 would be part of the Governor's staff, yes, sir, that's
10 correct.

11 Q Ultimately, for example, Ms. Huffstetler reports to
12 Dr. Hazel but Dr. Hazel reports to the Governor?

13 A Yes, sir.

14 Q Anyone who works in a Cabinet position is viewed as
15 part of the Governor's staff?

16 A Loosely, yes, sir, that's correct.

17 Q And anyone who works in his office is part of his
18 staff, right?

19 A Yes, sir.

20 Q And with respect to the First Lady's office at the
21 Mansion, are those his staff or are they her staff or
22 what?

23 A I guess to answer your question, they are, on a
24 day-to-day basis, viewed as part of her staff. But at the
25 end of the day they are ultimately Governor's staff as

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1 well.

2 Q Those folks ultimately report to you before, I mean,
3 in the chain of command, they report to you before it
4 would get to the Governor?

5 A Yes, sir.

6 Q So they would go to you if they had a problem, at
7 least in the first instance?

8 A Typically, yes, sir.

9 Q All right. Now, you said, I believe, that it
10 was -- that my client's primary interest and focus as the
11 Governor was jobs in Virginia; is that correct?

12 A That was certainly the top of the priority list, yes,
13 sir.

14 Q Other than public safety, and what did you mean by
15 that?

16 A Well, obviously, public safety took priority over
17 everything. Classic example would be if there is, you
18 know, an emergency, no matter what we were doing, even if
19 it was economic development, it would take a back seat to
20 public safety. But other than public safety, the top
21 priority of the Administration was economic development.

22 Q What were the third or fourth priorities?

23 A Education was probably amongst the top three or four.
24 I would probably, if I had to rank them, I would say
25 public safety, followed closely by economic development,

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1 education, and probably health.

2 Q All right. And you said it was very common for, at
3 the Mansion, or to host events at the Mansion; is that
4 correct?

5 A Yes, sir.

6 Q Do you have any sense of how many Mansion events
7 there were during the four years that you were with the
8 Governor's Office?

9 A I couldn't give you an exact number, but there were
10 many.

11 Q Would 1,150 or so ring a bell?

12 A That's entirely possible, yes.

13 Q At any point in time, did you ever try to figure out
14 after the investigation started, for example, how many
15 events there were at the Mansion?

16 A I don't think I did at the Mansion. The Governor and
17 I had discussed how many events, meetings he had taken and
18 Cabinet members and myself had taken, and at that point in
19 time, I did a very quick extrapolation by reaching out to
20 several Cabinet members just to get an idea of how many
21 meetings they felt they took, and I think the Governor
22 took that information and extrapolated from that.

23 Q Okay. I'm sorry, were you going to say something
24 else?

25 A No, that's it.

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1 Q You talked about the scheduling process. There was a
2 protocol or a process for scheduling the Governor for
3 various events?

4 A Yes. There were really two different processes. The
5 first was sort of the day-to-day schedule, for lack of a
6 better explanation, and that was really more the
7 scheduler, Governor, occasionally myself, I was included
8 in some of those discussions. But then there was a
9 separate weekly scheduling process which would be
10 typically invitations to go to Northern Virginia,
11 invitations to go to Roanoke, invitations to go to
12 Virginia Beach, events outside the office. And
13 we -- staff had an initial meeting where we tried to sort
14 through some of those to try to narrow the scope a little
15 bit.

16 Q Okay. But there were constant requests being made
17 for his time and attention; is that fair to say?

18 A Yes, it is.

19 Q Whatever the scheduling process was or the protocol
20 was, sometimes it would get bypassed, either by mistake or
21 because there wasn't enough time to go through the normal
22 process?

23 A That happened, yes.

24 Q Would that -- would it ever be -- who would be people
25 that would potentially interfere with the protocol in

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1 terms of trying to schedule something?

2 A Well, people would call. People would call, and
3 sometimes they would call the scheduler, sometimes they
4 would call me, or sometimes they would call the Governor
5 or he would run into them at particular events and ask to
6 meet with him. Classic examples would be legislators.
7 Whenever they were in town your schedule was kind of out
8 of the window because they would come across the street
9 and ask to speak to the Governor and wanted to speak to
10 him immediately. So that happened.

11 Q How about family members?

12 A Yes.

13 Q And they have the ability at times to try to redirect
14 the schedule? At least potentially to redirect the
15 schedule?

16 A Yes.

17 Q All right. And do you know whether or not that was
18 in consultation with my client or was it just something
19 that they wanted him to do and he may or may not agree?

20 A I'm sure it happened both ways, you know. You could
21 ask about a specific example and I could try to answer
22 your question. But generally speaking, I'm sure it
23 happened both ways.

24 Q Okay. Did you have any protocol in place for taking
25 a closer look at those sort of requests that were unusual

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1 or not the regular sort of process?

2 A No. You know, a lot of reliance was placed on the
3 Governor's scheduler to really sort of know what he had on
4 his schedule and to deal with those. If there was a
5 question, an example was shown earlier about an event
6 where she did bring it to to my attention and asked for my
7 input. But typically, she would handle that.

8 Q All right.

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1 Q You talked about everybody in the office working
2 24/7. Who led the pack in terms of hardest working?

3 A The Governor did.

4 Q Outworked everybody else on the staff?

5 A No question.

6 Q Now, you talked about meetings that would occur,
7 meetings on a weekly basis, or something, and these were
8 Cabinet members, I believe, you were discussing that?

9 A Yes, sir.

10 Q And at those meetings, sometimes the Governor would
11 ask somebody to look into something or to meet with
12 somebody?

13 A He did.

14 Q All right. So, "Take a look at this and tell me what
15 you think," basically? Is that the idea?

16 A That's generally the idea.

17 Q Or, "Meet with everybody and see if they got a good
18 idea, and if so, do what you need to do"?

19 A Yes.

20 Q As those meetings, was the Governor ever more
21 affirmative in terms of, "I want you to do this. I want
22 you to take action on it. I want you to get this done"?

23 A No. That was not the Governor's MO. The Governor --
24 you know, you could sense when it was something -- and it
25 was typically in the realm of economic development. You

1 could sense when it was something that he felt like we
2 should spend time and look at. But no, there was never a
3 situation where he demanded a response and a response -- a
4 specific response at a specific time, no.

5 Q Did he know how to make it plain that he wanted
6 something done?

7 A I'm sure he could. Sure.

8 Q Now, at any of these meetings that you talked about,
9 that you talked about earlier today, did you ever hear my
10 client ask anything to be done for Jonnie Williams or Star
11 Scientific?

12 A No.

13 Q All right. With respect to board, board members, did
14 you have any knowledge of my client ever appointing anyone
15 to any board or commission that was in any way related to
16 Star or related to Jonnie Williams?

17 A Not to my knowledge, no.

18 Q You talked about the UVA Board, I believe, and you
19 said, I think in reference to that Board in particular,
20 that those members of the Board, jealously guard their
21 independence, despite having been appointed by the
22 Governor?

23 A Yes, sir.

24 Q And there's some issue legally about whether or not
25 they can be fired by the Governor or there's some other

1 process that would be required --

2 A There is.

3 Q -- in order to fire -- there is another process?

4 A No. There is -- there has -- there's been debate
5 about how far the Governor's authority goes. I think it's
6 pretty clear by the code that when there's -- when they
7 have taken an inappropriate act, certainly in that
8 situation he has the ability to act. But it's a little
9 more gray when it comes to just general disagreement over
10 a policy position.

11 Q If they did something illegal, he could fire them.

12 But if they did something that disagreed -- you know, they
13 disagreed with his policy on something, that would be a
14 harder decision or a harder issue?

15 A Illegal or violate a university policy that's been
16 established by the Board. But yes, that's generally
17 correct.

18 Q With respect to -- so you were knowledgeable about
19 the people that -- that Governor McDonnell appointed to
20 boards and commissions? You were in that process?

21 A Not regularly. But on particular instances, the UVA
22 example is a classic example, I was pulled into it because
23 of the high profile nature of it. But typically, that
24 process, as I mentioned previously, was handled by the
25 Secretary of the Commonwealth.

1 Q And that would be Janet Kelly?

2 A Yes, sir. That is correct.

3 Q All right. With respect to the -- when you were
4 involved in these issues like that, the high profile
5 situation you described, did you believe that the Governor
6 was appointing people to boards on merit?

7 A The term he used throughout the administration, going
8 back to when we chose members of the Cabinet, all the way
9 through, was the best and the brightest. Those are the
10 terms that he used. He wanted the best and the brightest.

11 Q How did it work in terms of hiring the staff? Not
12 the Cabinet folks or people on boards, but in terms of --
13 obviously, he hired you. Did you then hire all the people
14 under you or was the Governor involved in those hires as
15 well?

16 A I never hired any high-level position without the
17 Governor signing off on it. You know, there were
18 positions, clerical positions where we had a need and
19 quickly needed to fill it that I would make that decision
20 on. But anything deputy agency head or higher, I asked
21 the Governor to weigh in and approve.

22 Q And when you asked him to weigh in and approve, do
23 you believe that the two of you collectively, in that
24 situation, were hiring the best and the brightest you
25 could?

1 A I believe so, yes. We certainly tried to.

2 Q Now, with respect to this UVA issue --

3 MR. ASBILL: Can we pull up 619, please.

4 Government Exhibit 619.

5 BY MR. ASBILL:

6 Q This is the letter to the Board members that you
7 talked about previously.

8 A Okay.

9 Q I don't want to get into the details of the letter.
10 I just want to talk to you generally about it. The letter
11 is in evidence. What was that controversy about, just in
12 a nutshell?

13 A There was an effort by certain members of the Board
14 to remove President Sullivan as the President of the
15 University of Virginia, and they initially took steps to
16 do so. I believe she initially agreed to step down. Then
17 she rescinded that offer. And it became a very high
18 profile, public situation, and ultimately, she was
19 reinstated as President.

20 Q All right. And that particular controversy occurred,
21 what, in June of 2012? Is that when it occurred?

22 A I don't remember the exact date. But this is the
23 date of the letter. So it must have been around that time
24 frame, yes.

25 Q Do you recall the letter being contemporaneous with

1 the controversy?

2 A I'm -- it was. It was. A decision was made --
3 because the matter had lingered for a period of time, I
4 think the Governor made a decision that he had to do
5 something to get the Board to make a decision one way or
6 the other, and basically told them that if they failed to
7 act, that they were not carrying out their
8 responsibilities as members of the Board of Visitors and
9 that he would take action.

10 Q All right. And he was very direct in terms of what
11 he was going to do if they failed to take action and deal
12 with this situation; is that right?

13 A He was.

14 Q Now, that particular controversy had nothing to do
15 with Jonnie Williams or Star Scientific in any way, did
16 it?

17 A Not to my knowledge. No.

18 Q All right. Let's talk about the Tobacco Commission.
19 And I believe you talked that the appointees to that
20 commission, it's some sort of joint process?

21 A It's a hybrid process. Yes, sir.

22 Q Okay. And the Secretary of Agriculture is the only
23 person that the Governor appoints directly to that
24 commission?

25 A No. I believe he appoints, by statute, actually, the

1 Secretary of Agriculture, the Secretary of Finance, and I
2 believe it's the Secretary of Commerce and Trade. And I
3 believe since that time, we may have even added
4 Secretary -- no. That's, I'm sorry, a different board.
5 Those three other Cabinet members.

6 Q Those are the Cabinet members --

7 A I believe so.

8 Q -- out of how many folks on the Board?

9 A There are over 30 in total. The Governor appoints a
10 number, and then the legislature appoints a number as
11 well.

12 Q And then the Board does what it wants or it does what
13 the Governor tells them to do?

14 A Well, the Tobacco Commission is a little more
15 complicated than that. The Tobacco Commission has what's
16 referred to as an Executive Committee. And the Executive
17 Committee, I think, makes a lot of preliminary decisions
18 and then meets with the full Board and basically adopts
19 those decisions. But they are independent of our office.

20 Q Okay. And to your knowledge, did Governor McDonnell
21 ever appoint anyone to the Tobacco Commission Board that
22 had any connection whatever to Star Scientific or Jonnie
23 Williams?

24 A Not to my knowledge, no.

25 Q To your knowledge, did my client ever try to

1 influence the Tobacco Commission in any way either by
2 testifying in front of them, calling them up on the phone,
3 sending them an e-mail, whatever, to support anything that
4 Jonnie Williams or Star Scientific may have been trying to
5 get from the Tobacco Commission?

6 A Not to my knowledge, no.

7 Q I believe you said you didn't -- or you only met
8 Mr. Williams one time; is that correct?

9 A Yes, sir. That's correct.

10 Q And did you ever talk to him on the phone or anything
11 like that?

12 A I don't remember ever speaking with Mr. Williams but
13 one time. And that was when we took a trip to New York.

14 Q Okay. Did you ever have discussions with my client
15 about Jonnie Williams before the start of the
16 investigation before the public knew about the existence
17 of the investigation?

18 A Not specifically about Mr. Williams. As we discussed
19 earlier, there was an incident driving his vehicle, which
20 the focus of that conversation was not Mr. Williams. It
21 was the fact that the Governor had driven the vehicle.
22 But no, we, to my knowledge, did not have any
23 conversations about Mr. Williams.

24 Q Prior to outside lawyers becoming involved when the
25 investigation became public, going all the way back,

1 however long you've known the Governor, did he ever refuse
2 to talk to you about anything you wanted to talk to him
3 about?

4 A No.

5 Q Now, I believe you said that there was a time, at
6 least one instance, when you were aware of somebody using
7 the Governor's likeness or name to try to promote
8 something without his permission, correct?

9 A Uh-huh.

10 Q And that related -- can you give me some more details
11 about that? Did that relate to a product called Nu Skin
12 and --

13 A I believe it did. And I believe it involved a
14 company that Maureen -- at the time, she wasn't the First
15 Lady -- was involved in.

16 Q And your understanding was that somehow his likeness
17 and the fact that he was the Attorney General was being
18 used to promote the product?

19 A Yes, sir.

20 Q And he was not aware of that?

21 A I don't believe he was. No, sir.

22 Q And when it came to his attention or your attention,
23 then you all shut it down?

24 A Yes, sir.

25 Q No pushback from my client on that?

1 A No, sir. I don't recall any pushback.

2 Q Now, the Smith Mountain Lake trip. That was the end
3 of July 2011, correct?

4 A I believe that was what we saw. Yes, sir.

5 Q Okay. And you were obviously aware of that trip,
6 correct?

7 A I was aware of that trip.

8 Q And you were aware that that was a gift from Jonnie
9 Williams?

10 A I don't think I got into how it was valued and how it
11 was reported. I did know that the Governor took a trip
12 and that the home was, I believe, Jonnie Williams' home.
13 I did know that. Yes, sir.

14 Q Okay. So regardless of exactly how it was reported,
15 you knew that it was connected to Jonnie Williams and/or
16 Star --

17 A I believe I did.

18 Q -- at the time the event occurred?

19 A I believe I did. Yes, sir.

20 Q All right. And you knew that fact well before the
21 Mansion lunch, which was 30 days later, right?

22 A Yes. I would have. That's correct.

23 Q Okay. Now, Mr. Faulconer, I believe, asked you about
24 were you aware of my client playing golf with Jonnie
25 Williams or playing at Kinloch, correct?

1 A He did. Yes, sir.

2 Q And do you play golf or --

3 A I'm not very good. I play at golf.

4 Q Miniature golf?

5 A Better at miniature golf. Yes, sir.

6 Q And you say you were not aware of some of the golf
7 outings that my client may have had --

8 A No, sir.

9 Q -- with Mr. Williams at Kinloch?

10 A No, sir.

11 Q How would you have -- I mean, other than it coming up
12 in a conversation with my client, what are the other ways
13 that you generally might be aware of something like that?

14 A Conversation. If it did or didn't show up on his
15 calendar on any particular day, I may or may not have
16 noticed it. But truthfully, if the Governor was away on
17 vacation, in particular, or out of the office for personal
18 things, I typically didn't focus on his calendar on any
19 given day or time. It was only when he was acting as
20 Governor that I would.

21 Q So if there were calendar events on a weekend, you
22 would not review those, generally?

23 A They would typically have been sent. But it was
24 rare. Unless I needed the Governor. If something came up
25 and I needed to get him and get him immediately, I would

1 refer back to his calendar, determine where he was, and
2 then try to track him down.

3 Q Okay. But you had transparency into his calendar, to
4 the extent things were calendared; is that correct?

5 A That's a fair statement. Yes.

6 Q Okay. And if something like a game of golf was not
7 on the calendar, are there reasons why that might be other
8 than trying to hide the game of golf?

9 A I'm sure there could be. Sure.

10 Q It could come up at the last minute or --

11 A Sure.

12 Q Do you know whether or not people got information
13 from my client or from others that were, for some reason,
14 mistakenly not on the calendar?

15 MR. FAULCONER: Objection, Your Honor. He's
16 calling for him to speculate.

17 THE COURT: Sustained.

18 BY MR. ASBILL:

19 Q Now, the Ferrari. You looked at the schedule and saw
20 that my client was scheduled to leave Smith Mountain Lake
21 at around 7 p.m. on the 31st of July?

22 A Yes, sir.

23 Q Do you know if that's exactly when he left or not?

24 A No, sir, I do not.

25 Q Okay. But he was supposed to come back that night?

1 A Yes, sir.

2 Q All right. And then later on you find out, I guess,
3 I think you said within a week or so, that the EPU people
4 were upset about it?

5 A Yes, sir. It was sometime that week afterwards, I
6 believe.

7 Q Okay. And you -- I mean, I don't want to use this
8 word improperly, but you chastised the Governor for that?

9 A I didn't -- I didn't chastise the Governor. I
10 reminded the Governor of their job, and that was to
11 protect he and the First Lady, and stressed the fact that
12 they couldn't do that if he's driving a vehicle and they
13 are following behind.

14 Q Okay. And after you talked to him about that, he
15 never did it again?

16 A To my knowledge, no, sir. He did not.

17 Q And prior to that time, had he ever driven himself
18 against the wishes of the EPU?

19 A To my knowledge, no, sir.

20 Q Had he ever done anything against the wishes of the
21 EPU that came to your attention?

22 A No, sir.

23 Q Ultimately, the decision to drive the car without the
24 EPU, whether it was over their objection or not, his call?

25 A Yes, sir.

1 Q Did you understand it was difficult to have EPU
2 people around you all the time?

3 A Absolutely.

4 MR. FAULCONER: Objection, Your Honor.

5 THE COURT: Sustained.

6 BY MR. ASBILL:

7 Q Did you know anything about the EPU eavesdropping on
8 my client's conversations --

9 MR. FAULCONER: Objection, Your Honor.

10 THE COURT: Sustained.

11 BY MR. ASBILL:

12 Q Now, I believe you looked at Exhibit 189.

13 MR. ASBILL: Can you pull that back up for me,
14 please.

15 BY MR. ASBILL:

16 Q This is an e-mail that you are not copied on?

17 A That's correct.

18 Q From my client to Bill Hazel?

19 A Yes, sir.

20 Q And this is the night that he gets back from Smith
21 Mountain Lake?

22 A That's what -- that's what I've been told. Yes, sir.

23 Q Okay. It's at 11:29 p.m. on the 31st of July of
24 2011, right?

25 A It appears to be. Yes, sir.

1 Q And you're not copied that. Are you copied on
2 everything that my client sends to Cabinet officers?

3 A No, sir. Not everything.

4 Q Do you have any reason to believe that you were not
5 copied on this on purpose for some bad reason?

6 MR. FAULCONER: Objection. Calls for
7 speculation.

8 THE COURT: Sustained.

9 BY MR. ASBILL:

10 Q With respect to why my client wanted Bill Hazel to
11 have Keith or Matt or somebody on his staff attend this
12 meeting the next day, do you have any transparency into
13 that?

14 A This e-mail came to my attention when I was
15 conducting a review.

16 MR. FAULCONER: Objection, Your Honor. We're
17 getting into anything that came to his attention after the
18 investigation. If he knew at the time, he can testify to
19 that. But I object to any conversation about anything
20 after the investigation.

21 THE COURT: You're talking about something you
22 learned later?

23 THE WITNESS: Yes, sir.

24 THE COURT: All right. Objection sustained.

25 BY MR. ASBILL:

1 Q So at the -- at the time that this -- that this
2 happened, basically, you don't know why my client wanted
3 Bill Hazel to do this, right?

4 A No, sir.

5 MR. ASBILL: Let's go to Exhibit 635 for a
6 minute.

7 BY MR. ASBILL:

8 Q This is an exhibit with your handwriting on it; is
9 that correct?

10 A It is.

11 Q All right. And you don't have any recollection about
12 ever talking to my client about that after you wrote those
13 notes?

14 A It had to have occurred for me to have made the
15 request. But specifics about a conversation, no, sir, I
16 do not recall that.

17 Q Okay. But, again, didn't try to talk to him and he
18 refused to talk to you, did he?

19 A No, sir. I can't say that.

20 Q All right.

21 MR. ASBILL: Let's go to Exhibit 206 that you
22 were shown on direct. Can you blow that up, please.

23 BY MR. ASBILL:

24 Q So this is on the 16th of August, and from you to
25 Jasen, right?

1 A Yes, sir.

2 Q All right.

3 MR. ASBILL: Scroll up. Okay.

4 Let me go to 230.

5 BY MR. ASBILL:

6 Q This is the Governor's schedule for 8/30, the day of
7 the Mansion lunch?

8 A Yes, sir. It appears to be.

9 Q And he had a pretty busy day that day?

10 A He did.

11 Q And this was overlaid by the earth, wind and fire
12 events that everybody has talked about?

13 A It was.

14 Q You have no recollection, either on the 16th or
15 between the 16th and the 30th, ever talking to my client
16 about the Mansion lunch?

17 A No. I don't think I was aware of it until the 29th.
18 And I did not discuss it with him that night.

19 Q All right. And do you know when he first became
20 aware of it?

21 A I do not.

22 Q Do you have any reason to believe that he planned it
23 or he organized it?

24 MR. FAULCONER: Objection, Your Honor.

25 THE COURT: Sustained.

1 BY MR. ASBILL:

2 Q You say you know Jerry Kilgore, right, and you talked
3 to him in August on an earlier occasion? Was that the
4 12th of August?

5 A I don't remember the exact date, but it was sometime
6 in the August time frame, middle August time frame.

7 Q All right. And whenever you and Jerry were talking,
8 who was with you, Jasen?

9 A Well, for that discussion?

10 Q Yeah. For the August 12th discussion.

11 A For that discussion, Jasen, myself. There were
12 several members of the McGuireWoods legal team that were
13 there, and I believe at one point the Governor actually
14 was at that meeting as well.

15 Q All right. And so a lot of lawyers, outside lawyers?
16 There was inside counsel?

17 A Yes, sir.

18 Q And you have no recollection that that discussion had
19 anything at all to do with the Mansion lunch; is that
20 correct?

21 A They were two separate discussions.

22 Q All right. So you learn about this Mansion lunch,
23 basically, on the 30th; is that correct? One day before
24 the event or --

25 A That would have been the 29th.

1 Q 29th. Excuse me.

2 A I believe so. Yes, sir.

3 Q All right. And it comes to your attention how?

4 A Through an e-mail that was forwarded to me by Tucker
5 Martin.

6 Q All right. And when that e-mail was forwarded to
7 you, you then -- you read it, obviously, and then you met
8 with Tucker; is that correct?

9 A Actually, I met with Jasen.

10 Q Jasen. Excuse me.

11 A Yes, sir.

12 Q And did you meet with Tucker as well or just Jasen?

13 A I'm assume we did discuss it. He had sent it to us.
14 But I recall specifically meeting with Jasen.

15 Q All right. And before you all took action, did you
16 ever have a discussion with my client about it?

17 A No. It was the night before the event. There was a
18 lot going on. My recollection is we saw it, and we
19 attempted to address it as quickly as possible.

20 Q All right. And you thought that the -- you thought
21 that the press release was essentially -- that Star was
22 thinking about issuing was overaggressive or not
23 appropriate --

24 A Yes.

25 Q -- in terms of your view?

1 A Yes, sir.

2 Q All right. So you all shut that down, correct?

3 A We did. Yes, sir.

4 Q Did you have any reason at all to believe that you
5 were not doing something that my client would have wanted
6 you to do?

7 MR. FAULCONER: Objection, Your Honor.

8 THE COURT: Sustained.

9 BY MR. ASBILL:

10 Q Did you ever later talk to my client about what you
11 had done, in terms of revising the press release?

12 A In 2013, yes, sir, I did.

13 Q Pre -- pre the commencement of the investigation?

14 A No, sir.

15 Q Did my client, between the time of the lunch and the
16 start of the investigation, ever give you any pushback on
17 what you had done?

18 A No, sir.

19 Q Did you ever talk to Mary-Shea Sutherland about it?

20 A As I mentioned previously, based on the e-mail
21 traffic, there had to have been some sort of conversation,
22 I assume, with her to get more information. But beyond
23 that, I don't recall any conversation. No, sir.

24 Q Did you inquire of her whether or not she was aware
25 of whether or not my client knew about the existence of

1 the press release?

2 A That would be logical, based on my question to her in
3 the e-mail, and I'm assuming I had to get more information
4 about the event from her. But I can't sit here and tell
5 you specifically how that conversation -- you know, how it
6 played out. I just don't recall that.

7 Q But in any event, after you talked to her, you didn't
8 talk to my client about it, correct?

9 A It was the night before the event, and we moved as
10 quickly as possible, in the midst of everything else going
11 on, to try to deal with it. No, sir, I did not.

12 Q Okay. Or at any time after the lunch itself?

13 MR. FAULCONER: Your Honor, this has been asked
14 and answered.

15 THE COURT: Sustained.

16 BY MR. ASBILL:

17 Q Now, you talked about sort of a black book, some sort
18 of a briefing book that the Governor would get before
19 events, and it would be stuck in the elevator in the
20 Mansion?

21 A He would get his schedule for the next day. It would
22 typically either be given to him as he left, or if he had
23 already left, it would be left in the elevator at the
24 Mansion for him to get the night before the day.

25 Q Okay. And did you see the actual briefing memo that

1 he got about the Mansion lunch event before he went to the
2 lunch?

3 A Did I review it or see it --

4 Q Yeah. Review the hard copy?

5 A Honestly, I don't remember. Again, there was so much
6 going on that day. I just -- I can't say if I did or
7 didn't.

8 Q Okay. You looked at an exhibit in this courtroom
9 with that particular information on it, and there were
10 some stars or asterisks, et cetera?

11 A Yes, sir.

12 Q And you said -- I believe you said that you thought
13 that was my client's handwriting?

14 A It appeared to be. Yes, sir.

15 Q And do you know when, in time, those asterisks were
16 placed on that document?

17 A No, sir.

18 Q All right. That particular event, the Mansion lunch,
19 you did talk to Jerry Kilgore, you and Jasen did, on the
20 29th; is that correct?

21 A I believe that's the case. Yes, sir.

22 Q And you just told him that, you know, this is not
23 something that was appropriate, from your perspective.
24 And you thought the meeting went well?

25 A I do. Yes, sir.

1 Q The conversation, I mean.

2 A I think he understood our concerns. Yes, sir.

3 Q And did you ever tell my client, before the
4 investigation began, about that conversation that you had
5 with Kilgore?

6 A Before this occurred?

7 Q Yeah.

8 A No, sir. I don't recall that.

9 Q Did you tell him about it afterwards that you had
10 talked to Kilgore?

11 A Yes, sir.

12 Q Before the investigation commenced?

13 MR. FAULCONER: Objection, Your Honor, to
14 conversations post investigation.

15 THE COURT: We don't know when -- in response to
16 this last question --

17 THE WITNESS: Yes, sir.

18 THE COURT: -- are you talking about before this
19 hit the media or sometime after?

20 THE WITNESS: No, sir.

21 THE COURT: The objection is sustained. Ask
22 another question.

23 BY MR. ASBILL:

24 Q With respect to concern about the press release that
25 you've been discussing or you've been describing in your

1 conferences with Mr. -- or conference with Jerry Kilgore,
2 would I be accurate in saying that your concern was with
3 the press release, not about the Governor?

4 A The concern was the press release and the inclusion
5 of the Governor and the First Lady in the press release,
6 the way it was worded.

7 Q Okay. But your concern was not about the Governor's
8 conduct. It was about Star's press release, right?

9 A It was about the press release, yes, sir. That's
10 correct.

11 Q Okay. You talked about an e-mail. I'm sorry. I
12 don't even know the exhibit number. February 17th, 2012,
13 with some -- that you didn't have any knowledge of, but
14 you were cc'd on the e-mail.

15 Did that kind of thing happen often; that even if you
16 were on an e-mail, you missed it, you overlooked it?

17 A It did. I mean, I probably averaged 3 or 400 e-mails
18 a day, in addition to phone calls and personal visits.

19 And I did my best to read as many of the e-mails I
20 received on days I could, but inevitably, there were some
21 e-mails that I just did not get to in the next day's work.

22 Q Do you have any knowledge of whether the Governor got
23 more or fewer e-mails than you?

24 MR. FAULCONER: Objection, Your Honor.

25 THE COURT: He can answer that.

1 A It wouldn't surprise me if the Governor received as
2 many or more.

3 BY MR. ASBILL:

4 Q All right. The Healthcare Leaders Reception in the
5 end of February 2012. I want to focus on that.

6 MR. ASBILL: Exhibit 345, please.

7 BY MR. ASBILL:

8 Q This is a calendar entry; is that correct?

9 A Appears to be. Yes, sir.

10 Q Reflecting a meeting between my client and Jonnie
11 Williams that same day for 25 minutes?

12 A Appears to be. Yes, sir.

13 Q Okay. And that's in advance of the reception that
14 night; is that correct?

15 A I'm not sure what time of day the reception was. But
16 that appears to be in the afternoon. The reception was
17 likely in the evening.

18 Q Okay.

19 A I did not attend the reception. So --

20 Q All right. No. I know you said you didn't attend
21 the reception. But this meeting is scheduled, is on the
22 record at the Governor's Office, correct?

23 A It appears to be. Yes, sir.

24 Q All right. And you were asked about a lot of
25 handwritten notes by my client, four or five pages of

1 handwritten notes.

2 Do you know when those notes were prepared? In other
3 words, do you know whether they were all in one day or in
4 multiple days?

5 A No, sir, I do not.

6 Q Do you know whether they were all in one meeting or
7 all about one meeting or they were about several
8 discussions?

9 A Do not.

10 Q Do you know whether those notes reflect my client's
11 views, opinion, analysis, as opposed to writing down what
12 someone else said?

13 MR. FAULCONER: Objection, Your Honor.

14 THE COURT: Sustained.

15 BY MR. ASBILL:

16 Q You just don't really have any idea about the
17 contents of that exhibit; is that right?

18 A Other than what I testified to, no, sir.

19 Q Okay. The event that you've described briefly, the
20 February 13th, 2013, you say you learned that Maureen
21 McDonnell was going to be talked to by the Virginia State
22 Police; is that right?

23 A Yes, sir.

24 Q And how is it that you learned that that was going to
25 occur?

1 A I believe I received a call from the Superintendent.

2 Q And what was your understanding of the purpose of the
3 meeting?

4 MR. FAULCONER: Objection, Your Honor.
5 Relevance as to his understanding.

6 THE COURT: Sustained.

7 BY MR. ASBILL:

8 Q Did you talk to my client about the meeting before it
9 occurred?

10 A Yes, sir.

11 Q Did you tell him the meeting had anything to do with
12 Jonnie Williams?

13 A No, sir.

14 Q You talked to him after the meeting, correct?

15 A Yes, sir.

16 Q And you say he seemed upset at that point?

17 A Yes, sir.

18 Q Do you know why?

19 A The only thing I recall him saying was that the
20 interview was not what it was purported to be about.

21 Q With respect to my client's personal finances, was
22 that something that he discussed with you at any time
23 during the years you worked for him?

24 A No, sir.

25 Q With respect to his marriage and any issues between

1 himself and his wife, are those things that he discussed
2 with you?

3 A No, sir.

4 Q Correspondingly, are those the types of things that
5 you ever brought up or raised with him and discussed with
6 him?

7 A Only if I felt like it somehow spilled over into
8 state government.

9 MR. ASBILL: Court's indulgence one moment, Your
10 Honor.

11 BY MR. ASBILL:

12 Q Going back to the discussion with Jerry Kilgore about
13 the Mansion lunch. Did Kilgore ever report to you in that
14 discussion that my client had somehow promised Star that
15 they could have a launch event at the Mansion?

16 MR. FAULCONER: Objection, Your Honor.

17 THE COURT: Sustained.

18 BY MR. ASBILL:

19 Q After the investigation became public -- that's,
20 what, Easter March 2013?

21 A I couldn't tell you the exact date, but it was
22 sometime around that time frame. Yes, sir.

23 Q And at that point, did you do anything to look into
24 the allegations?

25 MR. FAULCONER: Objection, Your Honor.

1 THE COURT: Sustained.

2 BY MR. ASBILL:

3 Q Were you legally authorized to do anything --

4 MR. FAULCONER: Objection, Your Honor.

5 BY MR. ASBILL:

6 Q -- to look into it?

7 THE COURT: Sustained.

8 BY MR. ASBILL:

9 Q Did you take any action after the investigation
10 broke --

11 MR. FAULCONER: Objection, Your Honor.

12 BY MR. ASBILL:

13 Q -- with respect to the subject matters of the
14 investigation?

15 THE COURT: Sustained.

16 BY MR. ASBILL:

17 Q That was in March 2013 when the investigation broke
18 or the public knew there was an investigation?

19 A It was sometime in that time frame. March, April
20 time frame.

21 Q And you stayed until the following January; is that
22 right?

23 A Yes, sir, I did.

24 MR. ASBILL: I have no further questions.

25 THE COURT: All right. We're going to stop now

1 for the morning break. We'll take 15 minutes.

2 (The jury left the courtroom.)

3 MR. DRY: Judge, I just wanted to apprise the
4 Court. The government anticipates calling witnesses
5 Skunda and Bridge tomorrow. And there's a pending motion
6 to exclude filed by the defendants, and we filed a
7 response. I don't know when the Court wants to take that
8 up, but I just wanted to apprise the Court of that.

9 THE COURT: So I guess that means I'll have to
10 look at it during lunch today. I'll deal with it.

11 MR. DRY: Thank you, Your Honor.

12 (Recess taken from 11:38 a.m. until 11:55 a.m.)

13 THE COURT: Hold up. We need the witness.

14 (The jury entered the courtroom.)

15 THE COURT: All right. Cross for Ms. McDonnell?

16 MR. BURCK: Thank you, Your Honor.

17 **CROSS-EXAMINATION**

18 BY MR. BURCK:

19 Q Good morning, Mr. Kent.

20 A Good morning.

21 Q My name is Bill Burck, and I represent Ms. McDonnell.
22 I have a handful of topics that I want to go through with
23 you as fast as possible.

24 A Okay.

25 Q First, I just want to start with when Ms. McDonnell

1 was the First Lady of Virginia, she was not a state
2 employee, right?

3 A That is correct.

4 Q She did not receive a salary?

5 A She did not.

6 Q And she was not a public official?

7 A That is correct.

8 Q She had no authority to hire or fire anyone, did she?

9 A That is correct.

10 Q Mary-Shea Sutherland, she left the Mansion in October
11 of 2011; is that right?

12 A I believe that's correct. Yes.

13 Q And I think that technically, you fired her; is that
14 right?

15 A She was involuntarily separated.

16 Q Involuntarily separated. And that was your -- your
17 authority that she was voluntarily separated, right?

18 A That is correct.

19 Q It wasn't Ms. McDonnell that -- that involuntarily
20 separated her?

21 A That is correct.

22 Q Now, in fact, Ms. McDonnell didn't ask you to
23 terminate her at all, did she?

24 A No, she did not.

25 Q You were asked about an incident involving Nu Skin.

1 This is back when the Governor was the Attorney General.

2 Do you remember that testimony?

3 A I do.

4 Q And the -- the incident that you described was that
5 Nu Skin was using Mr. McDonnell's likeness without his
6 permission; is that right?

7 A That was my understanding. Yes.

8 Q And you guys put an end to that? "You" the staff.

9 A That is correct.

10 Q Did Ms. McDonnell, in any way, object or complain
11 about that?

12 A I do not recall that. No.

13 Q Okay. Now, during the time that you were Chief of
14 Staff, which is, I guess, the entire period of the
15 Governor's time in office, you testified that he was the
16 busiest person in the -- in the administration?

17 A No question.

18 Q And there were times that Ms. McDonnell came to you
19 to try to get times scheduled with him; isn't that right?

20 A She didn't come to me. I think she came to the
21 scheduler.

22 Q She came to the scheduler?

23 A She did. Yes, sir.

24 Q And you were aware of the times that she would come
25 to the scheduler looking for time to be with

1 Mr. McDonnell?

2 A I was aware of several. I'm not sure if I was aware
3 of all. But I was aware of several. Yes.

4 Q And you were aware that she found that it was very
5 difficult to find time with him; isn't that right?

6 A That is probably correct. Yes.

7 Q Let's talk a little bit about the summer of 2011 and
8 Mary-Shea Sutherland and your interactions.

9 A Sure.

10 Q Now, you were asked about a shopping trip, I think,
11 by the prosecutor that you didn't know about at the time
12 in April 2011?

13 A (Nodding head.)

14 Q You -- please, can you just answer --

15 A That's correct.

16 Q Thanks.

17 A I'm sorry. I was waiting for you to finish your
18 question. I apologize.

19 Q No. That's okay.

20 Did Mary-Shea Sutherland ever tell you about the
21 shopping trip?

22 A I do not recall her ever telling me about that. No.

23 Q And did she ever tell you about the wedding gift to
24 Cailin that Mr. Williams provided?

25 A I do not believe she did. No.

1 Q Now, you testified that you recall that she said
2 something about credit card debt of about \$20,000?

3 A That's my recollection, yes.

4 Q And "she" being Mary-Shea Sutherland. She told you
5 about this?

6 A Referencing the First Lady.

7 Q Referencing the First Lady. And also Jonnie Williams
8 came up in the same conversation?

9 A I believe it did. Yes. Yeah. It was -- again, it
10 was in the midst of a very long protracted conversation
11 about other issues, but I do believe she did. Yes.

12 Q So to you -- sitting here today, your best
13 recollection is that Mary-Shea Sutherland told you
14 something about \$20,000 worth of credit card debt that
15 Jonnie Williams may have paid for the First Lady?

16 A That was the gist of it. Yes.

17 Q Okay. And, again, this is while Mary-Shea Sutherland
18 was actually employed by the Mansion; isn't that right?

19 A That is correct.

20 Q Did Mary-Shea Sutherland tell you that she received a
21 dress as a gift from Mr. Williams in April 2011?

22 A No, she did not.

23 Q Did she tell you that she was negotiating for a job
24 or a position of some sort with Mr. Williams during the
25 summer of 2011?

1 A No, she did not.

2 Q You testified about --

3 MR. BURCK: Can you please publish Government
4 Exhibit 226, which is already in evidence.

5 BY MR. BURCK:

6 Q This is -- take a moment to look at it.

7 MR. BURCK: If you could blow it up a little bit
8 so it's easier to read.

9 BY MR. BURCK:

10 Q This is a series of e-mails you testified about on
11 direct concerning the press release, leading up to the
12 launch?

13 A Yes.

14 Q Now, do you recall if Maureen McDonnell had any
15 involvement at all, as far as you knew, in the press
16 release?

17 A No. I have no specific knowledge of that.

18 Q And these -- this e-mail chain has -- Maureen
19 McDonnell is not on it at all, is she?

20 A No, she's not.

21 Q Do you recall if, when the press release was changed,
22 to make it more acceptable to the Mansion, to the Office
23 of the Governor, that Ms. McDonnell complained in any way,
24 pushed back in any way?

25 A No.

1 Q Okay.

2 MR. BURCK: You can take that down. Thank you.

3 BY MR. BURCK:

4 Q Do you recall that there was supposed to be a press
5 conference of some sort in front of the Mansion for the
6 launch event?

7 A That was my understanding. Yes.

8 Q Or the lunch or the launch event, whichever?

9 A Yes. That's my understanding.

10 Q And that was also canceled, right?

11 A That's -- that's what we focused on.

12 Q That's what you focused on. You and Jasen Eige --

13 A Yes.

14 Q -- and Tucker Martin?

15 A Tucker to a lesser extent, but primarily Jasen Eige
16 and myself. Yes.

17 Q Okay. And did you ever hear any kind of pushback or
18 complaint from the First Lady when that was canceled?

19 A No.

20 Q In December of 2011, there was SOEI training provided
21 for the staff; isn't that right?

22 A December of 2011?

23 Q Yes.

24 A There was some provided at some point in time. I'm
25 not sure of the exact date. But yes, there was.

1 Q Do you recall that the First Lady was provided
2 training as part of that SOEI training?

3 A She -- I believe she was. Yes.

4 Q Do you recall why she was included in the training?

5 A I do. And I think the timing, in large measure, had
6 to do with the change in transition of staffs. And she --
7 we -- several new hires were made after Mary-Shea had left
8 and a few other folks had left.

9 And I believe I spoke with my Deputy Chief Of Staff,
10 Matt Conrad, who, I believe, is the one who conducted the
11 training, and we felt like it was important for multiple
12 reasons. One, to try to ensure there was some cohesion
13 within the Governor's -- I mean the Mansion Office with
14 staff, you know. And it was sort of the -- the unknown,
15 and we felt like it was better to be safe than sorry and
16 to have her, along with the staff at the Mansion, included
17 to make sure that everyone was on record as to what the
18 requirements were.

19 Q Okay. And the SOEI training, at some point you
20 concluded that the First Lady did not have to file an SOEI
21 because she's not a state employee, right?

22 A I believe our counsel's office did make that
23 determination. Yes.

24 Q But the staff were employees of the -- of the state?

25 A They were. Yes.

1 Q So they would have to file SOEIs?

2 A Yes. They should.

3 Q Okay. So the First Lady was present for the reasons
4 you mentioned, not because she had to file an SOEI?

5 A That's correct.

6 Q Okay. And you -- there was a transition in staff,
7 you talked about, after Mary-Shea left --

8 A Yes.

9 Q -- or was terminated?

10 Can you tell us a little bit about that? There was
11 three people that replaced Ms. Sutherland?

12 A No. There weren't three that replaced her. There
13 was one individual that technically replaced her. There
14 was another individual that was hired for a different
15 purpose. That was -- part of her job was to deal with the
16 First Lady's initiative dealing with military spouses.
17 And so she, by default, was sort of folded into the work
18 of the Mansion, but she was not really hired to replace
19 Mary-Shea per se.

20 Q Okay. But when Mary-Shea left, is it fair to say
21 that the First Lady's -- the people, the number of staff,
22 that reported technically to the First Lady grew in
23 number?

24 A There were more individuals. That is correct.

25 Q And was that partially because there was concern

1 about the First Lady's ability to manage her office?

2 A Well, one individual was a request of the First Lady,
3 someone that she had known personally and was a personal
4 aide to her. And she -- we hired her primarily at the
5 First Lady's request.

6 There was an individual who, I would say, to answer
7 your question, was the primary replacement for Mary-Shea.

8 And then there was another individual that I
9 mentioned to you that was sort of morphed into part of the
10 First Lady's initiatives that was actually working at the
11 time, initially, for Public Safety and Commonwealth
12 Preparedness.

13 Q Okay. I want to talk about the -- briefly, about the
14 Virginia Health Leaders event.

15 A Okay.

16 Q Was it -- is it fair to say that it was not uncommon
17 for any kind of event that was going to be held at the
18 Mansion for the Governor's staff to ask the First Lady's
19 staff whether or not they wanted to invite people to an
20 event?

21 A I didn't get involved in that level of granularity,
22 but that wouldn't surprise me if that request was made.

23 Q And not just for that event, but I'm talking more
24 generally. That was a typical --

25 MR. FAULCONER: Objection, Your Honor. He said

1 he's not familiar.

2 THE COURT: Sustained.

3 BY MR. BURCK:

4 Q Going to February of 2013. There was a -- an
5 interview conducted by -- by the Virginia State Police of
6 Ms. McDonnell?

7 A Ms. McDonnell. Yes.

8 MR. BURCK: Please show the witness only, for
9 identification purposes, RM-2028. And can you blow it up
10 and then start at the bottom.

11 BY MR. BURCK:

12 Q Now, Mr. Kent, you testified that you recalled that
13 you received a phone call from Virginia State Police in
14 advance of that -- that interview. Do you recall that?

15 A I did.

16 Q Is this an e-mail from a Steven Flaherty to yourself,
17 dated February 13, 2013?

18 A It appears to be. Yes.

19 Q Do you know who Mr. Flaherty or Colonel Flaherty is?

20 A He's the Superintendent of the Virginia State Police.

21 MR. BURCK: Your Honor, we would offer RM-2028.

22 THE COURT: It will be admitted.

23 MR. BURCK: Could you blow it up entirely so we
24 can see the whole page?

25 BY MR. BURCK:

1 Q So starting at the bottom, this is an e-mail, again,
2 from Mr. Flaherty to you on February 13th. It says,
3 "Martin. We want to wrap up the Chef Todd case. Plan to
4 go to the grand jury next week. If the First Lady is
5 available Friday and can block off about two hours
6 (probably won't need that long) to talk to Charlie Hagan
7 and Tyler Kennedy, we would appreciate it. Thanks,
8 Steve."

9 Do you see that?

10 A I do.

11 Q And above that, you respond, "Will talk with her
12 tomorrow. Thanks, Steve," from Martin?

13 A That's correct.

14 Q And then immediately above that, it says, "Thanks."

15 Now, what was the Chef Todd case?

16 A That was a separate matter in the City of Richmond
17 involving some alleged misappropriation of state assets,
18 mainly, food, by the former chef of the Mansion.

19 Q And was that your understanding of what the agents
20 were there to interview Ms. McDonnell about?

21 A That -- that was my understanding, yes.

22 Q Do you recall if they had mentioned to you that they
23 wanted to talk with Jonnie Williams?

24 A No.

25 Q If you look at the top of the e-mail just briefly, it

1 says -- this is from you to Colonel Flaherty on the next
2 day, February 14th. "She is pulling together her notes so
3 she can refresh her memory for tomorrow. Go ahead and
4 work through her office to schedule. Thanks, Martin."

5 And then above, that Colonel Flaherty says, "Thanks,
6 Martin," right?

7 A Yes. That's correct.

8 Q So as of -- this is the day before the interview,
9 which is on February 15th, as of that point, you
10 understood that this interview was about the Chef Todd
11 case, correct?

12 A That's correct.

13 Q And you had no idea it was also about the Jonnie
14 Williams issue?

15 MR. FAULCONER: Objection, Your Honor.

16 THE COURT: He's already answered that.

17 BY MR. BURCK:

18 Q Now, prior to -- on the day of the interview on
19 February 15th, did you -- were you planning to attend this
20 interview with Ms. McDonnell?

21 A I had initially offered to attend the interview with
22 her.

23 Q I'm sorry. Who did you offer that to?

24 A I believe I offered that to the Governor.

25 Q Okay. And what did the Governor say to you?

1 A At the time, I think he thought it was okay. And,
2 you know, that was kind of the end of that conversation.
3 I think the understanding was is that I would attend with
4 her.

5 Q Okay. And did you attend with her?

6 A No.

7 Q What happened?

8 A I was contacted by Deputy Superintendent of State
9 Police and notified that I would not be -- I would not be
10 needed at the interview.

11 Q You would not be needed at the interview. But did
12 you still have a choice to attend the interview?

13 A I don't think so.

14 Q You did not have a choice?

15 A It was made clear to me that I was not invited.

16 Q And that was made clear to you by whom?

17 A By the Deputy Superintendent.

18 Q Do you know if Ms. McDonnell took anyone with her
19 into the interview?

20 A I do not know that she did.

21 Q Do you know if she took a lawyer with her into the
22 lawyer?

23 A I do not believe she did.

24 Q Just a few last questions for you.

25 MR. BURCK: Just pulling up Government Exhibit

1 231. This has already been admitted into evidence.

2 BY MR. BURCK:

3 Q If you look at the second and third pages of that
4 exhibit, you were asked about the handwriting. You
5 thought you believed that it looked like the Governor's
6 handwriting?

7 A That's correct.

8 Q And you were asked about stars that were placed next
9 to people's names?

10 A Uh-huh.

11 Q And one of the stars is John Clore, and another one
12 is Carrie Cantrell?

13 A Yes.

14 Q And the next page, Jasen Eige, John Laso. And then I
15 think Roskamp and Roskamp are written down on the third
16 page --

17 A Yes.

18 Q -- next to Diane Roskamp and Bob Roskamp. And
19 Mary-Shea Sutherland has "1st Lady Office," right?

20 A Yes.

21 Q Do you see Jonnie Williams and Jonnie Williams, Jr.
22 below Mary-Shea Sutherland on that list?

23 A Yes, I do.

24 Q Do you see any stars next to their names?

25 A I do not.

1 Q If you look, top of the page, above John Laso, Paul
2 Ladenson?

3 A I do.

4 Q Do you see a star next to that name?

5 A I do not.

6 Q And prior page, David Dean, and Fiona Crawford. Do
7 you see stars next to those names? It says Roskamp and
8 Star Scientific?

9 A I do not.

10 MR. BURCK: You can take that down. Thanks.

11 BY MR. BURCK:

12 Q And then just some final questions for you. Are you
13 aware of any -- during your time as Chief of Staff to the
14 Governor, are you aware of any budget money going to Star
15 Scientific or Jonnie Williams?

16 A No.

17 Q Are you aware of any economic grants going to Jonnie
18 Williams or Star Scientific?

19 A No.

20 Q Are you aware of any Board appointments made to Star
21 Scientific or Mr. Williams?

22 A No.

23 Q Are you aware any of legislation provided to or on
24 behalf of Star Scientific or Mr. Williams?

25 A No.

1 MR. BURCK: Your Honor, just a moment.

2 (Counsel conferring with co-counsel.)

3 MR. BURCK: No further questions, Your Honor.

4 THE COURT: Redirect?

5 MR. FAULCONER: Yes, Your Honor.

6 **REDIRECT EXAMINATION**

7 BY MR. FAULCONER:

8 Q Now, Mr. Kent, just to follow up real quick on
9 something that Mr. Burck was just asking about with
10 respect to state funds. Are you aware of what the default
11 is for an event held at the Mansion in terms of what pays
12 for an event at the Mansion?

13 A Who pays for an event at the Mansion?

14 Q Yeah. So if Sarah Scarbrough, for example, doesn't
15 invoice anybody for an event, are you aware of what the
16 default is of where that's paid out of?

17 A I would assume it would probably be the Governor's
18 PAC.

19 Q Sorry. An event held at the Mansion, is that paid
20 out of Mansion funds?

21 A No. You said the default if it wasn't paid for out
22 of the Mansion.

23 Q I'm sorry. Let me rephrase the question --

24 A I may have misunderstood your question.

25 Q -- to be a little bit more accurate.

1 A Yeah.

2 Q If an event is just held at the Mansion --

3 A Yeah.

4 Q -- and no invoicing is done to the PAC or to any
5 outside groups, what's your understanding of what the
6 default is of who pays for?

7 A Typically, it would be paid for by the Cabinet
8 secretary that has requested the event or the agency head
9 that's requested the event.

10 Q And if no agency head pays for it, does it then come
11 out of the Mansion budget?

12 A Yes. It would typically come out of the Mansion
13 budget.

14 Q And is the person who would typically be monitoring
15 that typically be Sarah Scarbrough?

16 A She would.

17 Q Now, you were asked a few questions about the
18 interview with law enforcement on February 15th of
19 Ms. McDonnell. And you discussed potentially going or you
20 potentially offering to go?

21 A Uh-huh.

22 Q Just to be clear, were you offering to go as
23 Ms. McDonnell's private personal attorney?

24 A No.

25 Q You were also asked some questions about Mary-Shea

1 Sutherland on cross-examination.

2 A Uh-huh.

3 Q And you were asked about whether or not she told you
4 about any conversations she had with Jonnie Williams about
5 employment.

6 A Uh-huh.

7 Q To be clear, in the summer of 2011, did Mary-Shea
8 Sutherland tell you that she was looking for outside
9 employment?

10 A She, most likely, did, in the midst of everything,
11 but she never mentioned Jonnie Williams.

12 Q But was it a surprise to you that she was --

13 MR. BURCK: Objection, Your Honor.

14 BY MR. BURCK:

15 Q -- potentially looking for outside employment?

16 THE COURT: Overruled.

17 A No, it was not a surprise.

18 BY MR. FAULCONER:

19 Q And shortly before she left, do you recall whether or
20 not Mr. McDonnell wanted, based on his conversations with
21 you, wanted Mary-Shea Sutherland to stay on staff or
22 whether he wanted her to leave?

23 A He initially wanted her to stay.

24 Q You also were asked about a couple of conversations
25 involving Nu Skin, the product endorsement type thing that

1 happened before Mr. McDonnell took office as Governor.

2 And I believe either Mr. Asbill or Mr. Burck asked you

3 about whether or not you got any pushback from

4 Ms. McDonnell about that. Do you remember that question?

5 A I do.

6 Q To be clear, did you have any conversation with

7 Ms. McDonnell about the Nu Skin, whatever that event was?

8 A No.

9 Q You were also asked about -- I'd like to go back for

10 just a moment to the interview with law enforcement --

11 A Uh-huh.

12 Q -- of Ms. McDonnell. Did Mr. McDonnell or

13 Ms. McDonnell, to your knowledge, ever ask you about

14 having a personal attorney there for Ms. McDonnell in that

15 interview?

16 A I don't remember they ever asked me about it.

17 Q So going back to -- past the Nu Skin, and then now

18 into the press release for the event at the Mansion in

19 late August of 2011. And you were asked about whether or

20 not Ms. McDonnell pushed back on you, whatever you and

21 Mr. Eige did with that press release?

22 A Uh-huh.

23 Q To be clear, did you have any conversation with

24 Ms. McDonnell in which she would have pushed back?

25 A No.

1 Q You were also asked about Mr. McDonnell and whether
2 he pushed back. Again, did you have any conversation with
3 Mr. McDonnell about that?

4 A No.

5 MR. FAULCONER: One moment, Your Honor.

6 (Counsel conferring with co-counsel.

7 MR. FAULCONER: No further questions.

8 THE COURT: All right, sir. You may stand down.
9 Thank you very much.

10 THE WITNESS: Yes, sir. Thank you.

11 (Witness stood aside.)

12 THE COURT: Call your next witness, please.

13 MS. ABER: The United States calls Sara Wilson.

14 **SARA WILSON,**

15 called as a witness by and on behalf of the government,
16 having been first duly sworn by the Clerk, was examined
17 and testified as follows:

18 **DIRECT EXAMINATION**

19 BY MS. ABER:

20 Q Good afternoon, Ms. Wilson.

21 A Good afternoon.

22 Q Please state your name, and spell your first and last
23 for the record.

24 A Sara Redding Wilson. And it's S-A-R-A, W-I-L-S-O-N.

25 Q What is your current title?

1 A I am the Virginia Department of Human Resource
2 Management Director.

3 Q Tell the jury, please, what that involves.

4 A I'm head of human resources. That -- one of the
5 things I manage is healthcare, EEO, any type of fairness
6 and equity type of issues, human resource policy for the
7 state. Any kinds of things like that that relate to
8 people. Worker's compensation. Various human resource
9 issues.

10 Q Do you work within the office of a Cabinet secretary?

11 A I do. I work within the Office of the Secretary of
12 Administration.

13 Q How long have you had this job?

14 A I've had this job since April 1998. This is my fifth
15 governor.

16 Q So does that mean you worked in the administration of
17 Governor Robert McDonnell?

18 A Yes, it does.

19 Q And during that administration, to which Cabinet
20 secretary did you report?

21 A Secretary of Administration.

22 Q And what was her name?

23 A Lisa Hicks-Thomas.

24 Q Is it fair to say that you oversee, in part of your
25 many hats, the health plan for the employees of the

1 Commonwealth of Virginia?

2 A Yes, ma'am.

3 Q Now, are you familiar with a company called Star
4 Scientific?

5 A I am.

6 Q Did you have a meeting with someone from Star
7 Scientific on February 29th, 2012?

8 A I did.

9 Q And who was that?

10 A David Dean.

11 Q And did he make an appointment or did he just sort of
12 swing by?

13 A He was a cold call. Just walked in, asked if I had
14 time to meet with him, and I did. So I met with him.

15 Q Is it common for folks to just knock on your door,
16 swing by?

17 A Has it been done? Yes. Is it the most common? No.
18 But it's not unheard of.

19 Q Now, at that time --

20 A And it was his lucky day. He didn't have to wait.

21 Q At that time, what did you understand that David Dean
22 did for Star Scientific?

23 A He was involved in sales and marketing for Star
24 Scientific.

25 Q And, in essence, what did David Dean want from you in

1 that meeting? What was his ask?

2 A He walked into the meeting. I said, "What can I do
3 for you? What is it you want?"

4 And he said, "I would like Anatabloc to be covered by
5 the employee health plan."

6 And I said, "Well what is this? Is this a drug? Is
7 it covered by the FDA? What is it?"

8 And he said, "Oh, no. No. No. This is a dietary
9 supplement."

10 And I said, "Well, that's going to make this meeting
11 really short because we don't cover dietary supplements in
12 the state health plan."

13 Q Did you ask Mr. Dean about studies of Anatabloc,
14 scientific studies?

15 A Oh, yes. Yes. Because he's a salesman. He's a good
16 salesman. And he talked about who was taking it and all
17 the people interested in it. And I wanted to see studies.
18 I wanted to see the scientific research behind this. Even
19 though we didn't cover it, I was very interested in
20 results. And we have a lot of employees that have -- that
21 need things that would be anti-inflammatory. So I looked
22 for detailed scientific information.

23 Q Did he say anything about having state employees
24 participate in a pilot research study?

25 A At some point in time, I've talked to him several

1 times, he may have mentioned it. But employees can
2 participate in any kind of study. There's that 1 800 on
3 the billboard, "If you have these kind of symptoms, call."
4 They are free to participate, but it's not anything that
5 we would sponsor.

6 Q Okay. So after you sent Mr. Dean on his way, did you
7 see him later that evening?

8 A Yes, I did.

9 Q And where did that happen?

10 A At the Executive Mansion.

11 Q For what kind of event at the Executive Mansion?

12 A I believe it was called Health Leaders meeting or
13 Leaders in Healthcare. Something along that line.

14 Q Did you also briefly meet a gentleman named Jonnie
15 Williams at that reception?

16 A Briefly.

17 Q Okay. Now, moving forward in time, almost a couple
18 weeks, were you present at a meeting with Mr. McDonnell on
19 March 21st, 2012?

20 A 21st. Yes. Yes, ma'am.

21 Q On or about?

22 A Yes. 21st.

23 Q Who else was at this meeting?

24 A Lisa Hicks-Thomas, Martin Kent. And others may have
25 come and gone, but those two were there for the duration.

1 Q And Lisa Hicks-Thomas was your boss at the time,
2 right?

3 A Yes, ma'am.

4 Q Where did the meeting take place?

5 A Governor's Office.

6 Q So the Governor was present?

7 A The Governor was present.

8 Q Okay. What was the purpose of this particular
9 meeting?

10 A We were talking about healthcare.

11 Q Was there any particular aspect that related to your
12 job and the Virginia healthcare plan for employees?

13 A Yes. He was very interested in implementing a
14 consumer-driven health plan, and we were always giving him
15 updates on that particular item. Of course, I always try
16 to get in employee compensation and other issues when I
17 have an audience with the Governor, but the primary
18 meeting was for healthcare.

19 Q In a nutshell, can you tell the jury what a
20 consumer-driven healthcare plan is?

21 A A consumer-driven healthcare plan is a plan that
22 we've put in place to try and get employees to really know
23 their numbers and be much more engaged in their health,
24 taking care of themselves. And we give them tools so that
25 they can understand the quality and cost from their

1 providers where you can go look it up on-line to see what
2 certain procedures cost or what providers charge. So they
3 have the tools.

4 And then the big difference from a regular plan is
5 that they pay more out of pocket. But to offset that, the
6 employer gives them cash. So that we give them cash for
7 them and for their spouse, and then they can earn
8 additional funds, what we call do rights. Like if you go
9 to the doctors, you can get a reward. If you get your flu
10 shot, you can get a reward. So would get additional
11 rewards to put into your account. And anything you don't
12 spend rolls over for your own account for the next year
13 and keeps rolling over and over and over. So it's your
14 money to spend on healthcare.

15 So the concept is is that if you're an employee
16 spending your money, you're going to be a good shopper.
17 And that's what we're looking for the consumer to be a
18 good shopper. Because if they are, then they win and so
19 does the state plan, which also means all other state
20 employees would win too because hopefully the cost would
21 drop.

22 Q Now, based on your conversations with Mr. McDonnell
23 during the administration, would you say that he was a
24 proponent of this consumer-driven plan?

25 A Oh, he was very much in -- very, very interested in

1 the consumer-driven plan. Yes.

2 Q Now, at this meeting on March 21st, did Mr. McDonnell
3 make any reference to Anatabloc?

4 A At the end of the meeting, he did.

5 Q Okay. Tell the jury what exactly happened, to the
6 best of your --

7 A He was mentioning -- we were talking about all these
8 issues, and he pulled out a bottle, you know, one of those
9 small bottles, of Anatabloc and talked about how much it
10 had helped him and his wife.

11 Q Did you try to respond to him?

12 A I did try to respond to tell him that I had already
13 met with these people. But there was a lot of
14 conversation, and so I just didn't finish the -- I didn't
15 finish my thought with him to tell him I had already met
16 with these people.

17 Q Had you ever seen Mr. McDonnell bring out a product
18 during a meeting like this?

19 A No.

20 Q Now, after the meeting had finished, did you walk out
21 with your boss, the Secretary of Administration, Lisa
22 Hicks-Thomas?

23 A I did.

24 Q Did you two ladies have a conversation?

25 A We did.

1 Q And tell the jury what you recall about that
2 conversation.

3 MR. BROWNLEE: Objection, Your Honor. Hearsay.

4 THE COURT: Overruled.

5 A I participated in this conversation. And when we
6 left the meeting, Lisa turned around and looked at me and
7 said, "He wants us to meet with these people."

8 And I said, "I didn't hear that. He never asked" --
9 "there was no specific ask in the meeting."

10 And she said, "Well, let's go down and" -- and she
11 said, "Well, trust me. That's what he wants."

12 And we walked down to her office and we Googled it,
13 because I understood from David Dean that it was being
14 sold by GNC, but I had never scoped it out. So we pulled
15 it up and looked at the price and looked at how it was
16 being sold. And I explained to Lisa the kinds of things
17 that I mentioned with David Dean; that, no, we wouldn't
18 cover it, but I did offer to him a chance to give -- if
19 it's marketed publicly, if he wanted to give an employee
20 discount, we'd post it on the website, if employees wanted
21 a discount, and I never heard back from them on that.

22 Q Okay.

23 MS. ABER: One moment, please, Your Honor.

24 (Counsel conferring with co-counsel.)

25 MS. ABER: I have no further questions, Your

1 Honor. Thank you.

2 THE COURT: All right. Anything for
3 Mr. McDonnell?

4 **CROSS-EXAMINATION**

5 BY MR. BROWNLEE:

6 Q Good afternoon, Ms. Wilson.

7 A Good afternoon.

8 Q My name is John Brownlee. I represent Bob McDonnell,
9 and I have a few questions for you today.

10 A All right.

11 Q Just to review, you were first appointed to the
12 government by Governor Gilmore in 1998; is that correct?

13 A That's correct.

14 Q And I believe you've testified that you're now on
15 your fifth governor?

16 A Yes, sir.

17 Q Okay. And is it fair to say that with regard to
18 healthcare policy and this consumer-driven policy that you
19 talked about, that this was something that Governor
20 McDonnell was very interested in from the very beginning
21 of his administration?

22 A Absolutely.

23 Q Okay. And I believe you testified that you met with
24 him regularly on budget issues; is that right?

25 A Well, if I met with the Governor, generally, it was

1 budget, but the topic was always involving healthcare
2 because it is a big driver for us for the budget.

3 Q Okay. Just to talk about this first meeting, this
4 meeting with David Dean. I believe you testified this was
5 a cold call. So he just --

6 A Cold call. Just walked in.

7 Q Wanted to talk?

8 A "Can we talk?" And I said, "Okay."

9 Q All right. And is it fair to say within -- because
10 you are the Director of Human -- let me make sure I get
11 this right -- the Human Resources Management, that this
12 happens somewhat frequently that you meet with these types
13 of sales reps?

14 A I get vendors all the time. Call all the time. And
15 we will meet with everybody. Usually they make an
16 appointment.

17 Q Okay.

18 A But I do meet with anybody that asks to have a
19 meeting.

20 Q All right. And you see part of your job is to kind
21 of hear them out?

22 A That's part of my job, to listen to them. And
23 anything that looks like it has merit to further along,
24 then we move it up to the healthcare team.

25 Q Okay. And Mr. Dean, according to your testimony,

1 wanted Anatabloc added to the state employee health plan;
2 is that correct?

3 A That's what he asked for.

4 Q All right. And you told him no?

5 A And I said, "Well, this will be a short meeting."

6 Yes, I told him no.

7 Q Okay. And at that point he said he would try to -- I
8 think you -- is it true that you told him that you needed
9 to see some science behind this?

10 A I was interested in hearing -- I mean, he was an
11 engaging fellow. I was interested in hearing the details.
12 And if -- you know, somebody has to come up with a new
13 product sometime, and so I wanted to see the research. It
14 sounded like it was not ready for prime time, but I was
15 really interested in the scientific evidence that would
16 support it --

17 Q Okay.

18 A -- to keep my eye on it.

19 Q Okay. And so as the meeting left, he said he would
20 try to follow up with you at some later date; is that
21 correct?

22 A He would give me additional information at a later
23 date. Yes, sir.

24 Q Okay. Now, with regard to that meeting, best of your
25 knowledge, Bob McDonnell didn't have anything to do with

1 that; is that correct?

2 A No. From best of my knowledge, this was a salesman
3 trying to do his job, cold call on a -- somebody with the
4 health plan where his product could be -- he thought could
5 be benefited.

6 Q Okay.

7 A No. I had no idea -- I didn't -- never assumed it
8 was from the Governor.

9 Q Okay.

10 A Thought it was a cold call from the company.

11 Q Okay. Let me move to this Healthcare Leaders
12 Reception. You said that you attended that evening --

13 A I did.

14 Q -- in February?

15 That you saw Mr. Dean that evening?

16 A I did.

17 Q This was the gentleman who had just dropped in on
18 you --

19 A Yes.

20 Q -- a few hours before?

21 A He must have been killing time or something. He came
22 to see me. I don't know.

23 Q Okay. And did you see Bob McDonnell that night?

24 A I did.

25 Q Okay. Did he come by and talk to you? Do you

1 recall?

2 A I don't know if I talked to him. But I saw him. He
3 was busy.

4 Q All right. He didn't come by and --

5 A It could easily have. I don't recall. But it would
6 not be uncommon for him to acknowledge your presence and
7 say hello.

8 Q Okay.

9 A But I cannot recall specifically whether he did at
10 that time or not.

11 Q Okay. Let me -- now, you had a second meeting with
12 Mr. Dean; is that correct?

13 A I did.

14 Q Okay. And this is, I guess, the follow-up to his
15 original; is that correct?

16 A That's correct.

17 Q Okay. And at this second meeting, did he bring some
18 slides?

19 A He brought a PowerPoint presentation.

20 Q Okay. And let me --

21 MR. BROWNLEE: Could we pull up, please,
22 RM-1448 -- just for the witness -- 0001.

23 BY MR. BROWNLEE:

24 Q And does this look like at least the front slide and
25 the other slides of the --

1 A These slides. Yes.

2 Q Okay. And there was a --

3 A Yes.

4 Q These are these other folks.

5 A Uh-huh.

6 MR. BROWNLEE: Your Honor, we would move

7 RM-1448-01 through 31 into evidence.

8 THE COURT: It will be admitted.

9 MR. BROWNLEE: Thank you, Your Honor.

10 BY MR. BROWNLEE:

11 Q And so this is the package of materials that he left
12 for you to take a look at; is that correct?

13 A That was his leave behind, yes, sir.

14 Q Okay. And fair to say that you reviewed these?

15 A I did.

16 Q Okay. And --

17 A We reviewed them together.

18 Q Okay. And after that, did you, once again, tell him
19 that -- first of all, State of Virginia, your office, this
20 kind of stuff doesn't go on your formulary; is that
21 correct?

22 A Oh, he knows that.

23 Q Okay.

24 A He knew that.

25 Q Okay.

1 A I think he was just following up that -- I had asked
2 for specific details, and this was his -- this was his
3 specific detail, I think.

4 Q Okay. Fair to say this didn't convince you to --

5 A No. This is not what I had in mind. I was looking
6 for a scientific document, you know, where there were
7 studies done and research done and the probabilities and
8 percentages of the study. I consider this more marketing
9 material.

10 Q Okay. So once again, he left without getting any of
11 your assistance?

12 A That's correct.

13 Q Okay. And Bob McDonnell didn't have anything to do
14 with this meeting?

15 A Not that I'm aware of. Not to my knowledge at all,
16 huh-uh.

17 Q Okay. I mean, he never asked you --

18 A Never.

19 Q Now, I want to touch, finally, on this meeting that
20 Ms. Aber talked about in the Governor's Office.

21 A Yes.

22 Q And this was on March 21; is that correct?

23 A That's correct.

24 Q Okay. And this meeting talked about this rollout of
25 this consumer-driven healthcare plan; is that correct?

1 A Yes, sir.

2 Q Okay. And I think you testified that at some point
3 at the end of the meeting Mr. McDonnell pulled out a
4 bottle of Anatabloc and talked about the fact that he took
5 it and that it had helped him; is that --

6 A That's correct.

7 Q And you testified that you were talking about
8 numbers. Were those numbers, like cholesterol numbers and
9 blood numbers? Things that people refer to in their own
10 health?

11 A Yes. We were trying to get employees -- one of the
12 things about a consumer-driven health plan is to get
13 employees to know their numbers. Whether it's their blood
14 pressure, their BMI, their --

15 Q What is BMI, for the record?

16 A We have -- it's -- it is the measure, really, of
17 whether you're overweight or not.

18 Q Okay.

19 A And so that's -- we are really interested in that
20 because if you are, it has a collateral impact on a lot of
21 other diseases --

22 Q Okay.

23 A -- which raises the cost of the healthcare. So we're
24 trying to get everybody to do right and do all the things
25 to help them be healthier. And if they're healthier, then

1 they're at work more, and they are -- we get the work
2 done, and they are better and healthier.

3 Q All right. Do you remember, if you recall, one of
4 the numbers that was discussed was something called
5 C-reactive protein? Do you recall that?

6 A I don't recall that, but it could easily have been
7 discussed. But I am familiar with C-reactive protein.

8 Q All right. And is that a number or a marker --

9 A That's an inflammatory piece to -- that goes with
10 that, that measures that.

11 Q All right. And that has some indication of the
12 status of your heart. Is that fair?

13 A Yes.

14 Q Okay. Now, I believe you stated before that it was
15 your view that when he pulled this out, that it was like
16 someone would pull out and say, "I like an Advil gel cap
17 over Tylenol"; is that correct?

18 A He pulled it out. I didn't know why he pulled it
19 out. I mean, for me, it could say -- I would say, "I like
20 Advil gel caps over Aleve." I had no idea why he pulled
21 it out because there was no ask. There was nothing there.
22 He did pull it out of his pocket, though, and talk about
23 it. It was personal.

24 Q Okay. Now, Ms. Aber talked with you about -- after
25 the meeting you had this conversation with Ms. Hicks --

1 Secretary Hicks-Thomas; is that correct?

2 A Yes.

3 Q And there was some confusion between the two as to
4 whether or not -- exactly what Mr. McDonnell had said in
5 the meeting?

6 A Well, I don't know if there was -- I did not hear him
7 ask for anything, and she thought that -- it was my -- my
8 recollection that she said, "He wants us to contact them."
9 And that wasn't my recollection at all because he didn't
10 say that.

11 Q Okay.

12 A And I had already met with these people.

13 Q Okay. And so then you went and --

14 A Googled them.

15 Q -- you looked it up on -- on Google?

16 A We Googled them.

17 Q And Googled them. Okay. Fair enough. Now, you did
18 have on your calendar, did you not, just scheduled for the
19 next day, this meeting with Dean that you just talked
20 about?

21 A That was just a follow-up meeting from our first
22 meeting.

23 Q Okay. But that didn't have anything to do with Bob
24 McDonnell?

25 A No.

1 Q Okay. All right. And after that, were there ever
2 any other follow-up or any additional meetings or anything
3 about Anatabloc or -- or Star Scientific with you?

4 A The only issue that I -- when we went down, as we
5 walked down to Secretary Lisa Hicks-Thomas' office, I
6 explained the history I had had with learning about Star
7 Scientific, and I explained to her that David Dean had
8 been to see me, that I told him it was not covered, that
9 I -- I did offer an employee discount if they wanted to
10 offer that, and I had not heard back.

11 We Googled them, and I said, "I'll keep you posted if
12 I hear anything more about it. And to date, we've not
13 even heard back on the discount for state employees. So
14 we've really not talked about it since.

15 Q Okay.

16 A I mean, other than related to something like that.
17 But no. Never followed up.

18 MR. BROWNLEE: All right. Great.

19 Thank you, Your Honor.

20 Thank you.

21 THE COURT: All right.

22 MR. KOFFMANN: Nothing for Ms. McDonnell.

23 THE COURT: All right. Cross for Ms. --

24 MR. KOFFMANN: Nothing for Ms. McDonnell.

25 THE COURT: All right. Any redirect?

1 MS. ABER: Yes, Your Honor.

2 **REDIRECT EXAMINATION**

3 BY MS. ABER:

4 Q Two questions. Although every lawyer says that and
5 it's four. Why, Ms. Wilson, did you have an instinct to
6 say that you had already met with the Star Scientific
7 folks if you didn't think that Mr. McDonnell was asking
8 for anything?

9 A Because he was mentioning about a product, and I
10 didn't think anybody else in the room knew about it. I
11 wanted him -- I had an instinct to say, "Yes, I was
12 familiar with the product."

13 Q Okay. Second question.

14 A If you mentioned something to me, I would tell you if
15 I knew about it or not.

16 Q Yes, ma'am. Second question. I believe on
17 cross-examination you said you didn't know why
18 Mr. McDonnell pulled the bottle out of his pocket.

19 A That's correct.

20 Q Were you aware that Mr. McDonnell had received a
21 50,000 loan from --

22 MR. BROWNLEE: Objection, Your Honor.

23 BY MS. ABER:

24 Q -- Mr. Williams?

25 THE COURT: Sustained.

1 MS. ABER: Then I have no further questions,
2 Your Honor. Thank you.

3 THE COURT: All right. Thank you, ma'am. You
4 may stand down.

5 (Witness stood aside.)

6 THE COURT: All right. I think we're going to
7 go ahead and stop now for lunch. If you all could come
8 back at 2:00. It's about a quarter of now. Come back at
9 2:00, and we'll get started with the afternoon session.

10 (The jury left the courtroom.)

11 THE COURT: I'm going to resolve this Skunda and
12 Bridge matter at the end of the day. We'll probably send
13 the jury home, and then we'll take a few minutes to deal
14 with it. And I -- we didn't get a written reply from the
15 defendants, I don't believe, but we'll --

16 MR. BURNHAM: We just filed it.

17 THE COURT: You just filed it?

18 MR. BURNHAM: Yes, sir, Your Honor. Twenty
19 minutes ago.

20 THE COURT: Oh, okay. Well, I haven't seen it
21 yet. Then that will save us some time this afternoon,
22 then. So, you know, I'll give you all a few minutes to
23 say whatever you have to say, and then I'll resolve it so
24 we'll know what we're doing tomorrow. All right. Thank
25 you.

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1 (Luncheon recess taken from 12:42 p.m. to 2:00
2 p.m.)

3 THE COURT: Let's bring in the jury, please.

4 (The jury entered the courtroom.)

5 All right, government?

6 MS. ABER: The United States calls Lisa
7 Hicks-Thomas.

8 LISA HICKS-THOMAS,
9 called as a witness by and on behalf of the government,
10 having been first duly sworn by the Clerk, was examined
11 and testified as follows:

12 DIRECT EXAMINATION

13 BY MS. ABER:

14 Q Good afternoon.

15 A Good afternoon.

16 Q Please state your name and spell it for the record.

17 A It is Lisa Hicks-Thomas, L-I-S-A, H-I-C-K-S -
18 T-H-O-M-A-S.

19 Q Did you previously serve in the Administration of
20 Governor Robert McDonnell?

21 A Yes, I did.

22 Q In what capacity?

23 A I was the Secretary of Administration.

24 Q Can you tell the jury briefly what a Secretary of
25 Administration does?

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1 A Sure. The Secretary of Administration is a member of
2 the Governor's Cabinet, tasked with basically the
3 responsibility of running the back office of state
4 government. And I had a number of agencies that reported
5 to me, including the Department of Human Resource
6 Management, the Department of General Services, the State
7 Board of Elections, the State Compensation Board, the
8 Department of Employee Dispute Resolution, the Department
9 of Minority Business Enterprise, and the State
10 Compensation Board. I think I said that.

11 Q Did a woman named Sara Wilson report to you?

12 A Yes, she did. She was the head of the Department of
13 Human Resource Management.

14 Q And to whom did you report?

15 A I reported to the Governor.

16 Q So fair to say you are part of or were part of the
17 Cabinet?

18 A Yes.

19 Q Could the Governor fire you?

20 A Yes.

21 Q Just to be clear, you don't work in state government
22 anymore, right?

23 A No.

24 Q All right. In your capacity as Secretary of
25 Administration, did you have a hand in administering the

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1 health plan for the employees of the Commonwealth of
2 Virginia?

3 A Yes, I did. As I said, the workforce, state
4 employees, about 105,000 employees, were under our state
5 health plan, and that fell under the purview of the
6 Department of Human Resource Management and then
7 ultimately up to me as the Secretary.

8 Q Who administers the health plan for Virginia state
9 employees?

10 A The company, you mean?

11 Q I mean --

12 A We are self-insured. The state is self-insured, but
13 we have a third-party administrator and that is Anthem.

14 Q Approximately how much money during your tenure did
15 the State of Virginia spend on the healthcare plan for
16 state employees? Ballpark?

17 A Definitely in the millions of dollars.

18 Q Now, did the state employee health plan authorize
19 certain drugs that could be used and not used by state
20 employees?

21 A Yes.

22 Q And who made the decision about what drugs would be
23 covered and which ones would not?

24 A Well, it was a joint decision. I mean, the
25 Department of Human Resource Management and the folks that

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1 were directly assigned to look at the healthcare plan,
2 they would do research over the year as well as with our,
3 we had different advisors, different companies that worked
4 with us, like Aon, for example, and they would make
5 calculations as to what was more effective or what was,
6 you know, not being utilized or what would be, you know,
7 less expensive, for example, and so they would make
8 recommendations to Sara. And then Sara would bring those
9 to me and we would look over the plan and then we would
10 sit down ultimately during the budget cycle when we were
11 going over the state budget, we would sit down with the
12 Governor and folks from the Department of Planning and
13 Budget and make those decisions together.

14 Q Did you periodically have meetings with the Governor
15 about the state employee healthcare plan?

16 A Yes.

17 Q Did you have such a meeting back in the spring of
18 2012?

19 A Yes.

20 Q Who was present at the spring meeting?

21 A I was present, Sara Wilson was present, I believe
22 Martin Kent was there, and the Governor was there.

23 Q And where did the meeting take place?

24 A I believe that meeting took place in the Governor's
25 office.

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1 Q In general, what was the topic of that particular
2 meeting?

3 A We were talking about the state employee health plan.

4 Q In very short terms, how would you describe a
5 consumer-driven health plan?

6 A We were talking about implementing a consumer-driven
7 health plan, which just to be brief, it is really
8 empowering state employees or whoever is covered by the
9 plan to have more information about their healthcare
10 costs, and it is a way to drive down healthcare costs for
11 the Commonwealth of Virginia and ultimately for the
12 taxpayers.

13 Q During this particular meeting, did Mr. McDonnell
14 make any reference to Anatabloc?

15 A Yes. At some point in the meeting, he reached in his
16 pocket and pulled out, he showed us the pills and he said
17 that he had been taking them and that they were working
18 well for him, and that he thought it would be good for
19 like state employees, and then he said that, he asked us
20 if we would meet with them, meet with the people.

21 Q In that meeting, did you respond?

22 A I'm sure we said, "Sure." I can't remember. I
23 really don't remember word for word what I said. But that
24 was pretty much the gist of it.

25 Q And after the meeting finished, what did you do?

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1 A After the meeting finished, Sara and I left the
2 office, and I'm not sure if she told me at that point that
3 she had already met with the folks, but we went down to my
4 office and we went and looked it up on the computer to see
5 what it was.

6 MS. ABER: If I could have one moment, please,
7 Your Honor.

8 THE COURT: Sure.

9 (Counsel conferring with co-counsel.)

10 MS. ABER: Thank you, Your Honor. I have no
11 further questions.

12 THE COURT: Cross?

13 CROSS-EXAMINATION

14 BY MR. BROWNLEE:

15 Q Good afternoon, Secretary Hicks-Thomas. My name is
16 John Brownlee, and I'm an attorney for Bob McDonnell And I
17 just have a few questions for you this afternoon. You
18 worked for Governor McDonnell when he was Attorney
19 General; is that correct?

20 A Yes.

21 Q What was your duties or title when you worked in the
22 Attorney General's Office?

23 A When I worked for him or when I first started?

24 Q When you worked for Governor McDonnell.

25 A Okay, when Governor McDonnell became the Attorney

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1 General, I was originally the Chief of the Computer Crime
2 Unit for the Attorney General's Office. And then in 2006
3 or 2007, he appointed me as his Deputy Attorney General
4 for the Transportation, Real Estate, Environmental and
5 Technology Division.

6 Q Okay. And so, then when I guess he left for a brief
7 period to run for Governor and then when he was elected
8 Governor, you joined his Cabinet; is that correct?

9 A Right. He appointed me as the Secretary in 2010, in
10 January.

11 Q When he was inaugurated?

12 A Right.

13 Q You served in that position for four years?

14 A Yes.

15 Q You stayed until the end of his Administration?

16 A I did.

17 Q Just a couple of questions about this meeting. I
18 think you said that Martin Kent was there?

19 A That's correct.

20 Q Ms. Wilson was there?

21 A Yes.

22 Q And yourself and Governor McDonnell.

23 A Right.

24 Q At some point -- and the purpose of the meeting was
25 to talk about this consumer-supported or consumer-driven

LISA HICKS-THOMAS - CROSS - BROWNLEE

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1 kind of healthcare plan.

2 A That's right.

3 Q This is something that had been part of the
4 Administration's drive since he started; is that correct?

5 A It is something we had been looking at doing right
6 for the entire Administration.

7 Q I think you testified at some point during this, he
8 pulled out an Anatabloc pill or something and said he took
9 it and thought it helped him; is that correct?

10 A That's correct.

11 Q Okay. And then there was some other conversation,
12 and I think you testified that you can't remember word for
13 word, but at some point after the meeting, you and
14 Ms. Wilson had a discussion about what he actually said,
15 and whether or not he wanted you all to meet with him; is
16 that right? Do you remember that?

17 A I don't recall that. I know at some point after the
18 meeting, Sara and I left and she said that she had already
19 met with the people, the Anatabloc folks. And then we
20 walked down to my office and looked it up on the Internet.

21 Q Okay. You looked up the company?

22 A Right. We looked up Anatabloc.

23 Q Okay. Now, if it was after that -- was there any
24 other follow-up?

25 A No.

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1 Q Governor McDonnell never came back to you and said

2 "Did you meet with them? Did you take care of that?"

3 A Never.

4 Q Okay. Now, Ms. Aber asked you about whether or not
5 the Governor could fire you. I just want to be clear, he
6 didn't fire you, right?

7 A No, he did not.

8 Q You stayed until the very last day; is that right?

9 A Until the very last day.

10 Q Okay. Fair to say that if you had the opportunity
11 you would go work for him again?

12 MS. ABER: Objection.

13 THE COURT: She can answer it if she wants.

14 THE WITNESS: Well, yes. I guess if he was the
15 Governor again, I guess I would work for him again. Yes.
16 Although I like where I work now, I will say.

17 MR. BROWNLEE: Thank you very much.

18 THE COURT: Anything?

19 MR. KOFFMANN: No questions, Your Honor.

20 THE COURT: Anything else based on that?

21 MS. ABER: No, Your Honor, thank you.

22 THE COURT: You may stand down.

23 (Witness stood aside.)

24 Call your next witness, please.

25 MR. HARBACH: Thank you, Your Honor, the

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1 government calls Michael Uncapher.

2 MICHAEL UNCAPHER,

3 called as a witness by and on behalf of the government,

4 having been first duly sworn by the Clerk, was examined

5 and testified as follows:

6 DIRECT EXAMINATION

7 BY MR. HARBACH:

8 Q Good afternoon, sir.

9 A How are you?

10 Q All right, thanks. Could you please state your full
11 name and spell your last name for the reporter?

12 A Michael David Uncapher, U-N-C-A-P-H-E-R.

13 Q What do you do for a living?

14 A I own a crossfit gym and do muscle therapy.

15 Q Tell us about your educational background.

16 A Graduated from Ohio State University with a degree in
17 exercise science, and then have a certification in muscle
18 activation techniques.

19 Q At one time in your life, were you married to Maureen
20 C. McDonnell?

21 A Yes.

22 Q How was that person related to Mr. Robert McDonnell,
23 if you know?

24 A Maureen is Bob's sister.

25 Q Are you still married to her?

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1 A No.

2 Q During what time frame were you married to your
3 former wife?

4 A 2006, June, 2006 to the divorce was just final this
5 year, 2014.

6 Q Okay. You said the divorce was finalized in 2014?

7 A Right.

8 Q Was there a time prior to the divorce during which
9 you were separated from your ex-wife?

10 A Separated starting October of 2012.

11 Q Are you familiar with a business entity called MoBo
12 Realty LLC?

13 A Yes.

14 Q What is that?

15 A It was a partnership between Bob and Maureen that
16 managed the rental properties that they had.

17 Q And you are talking about Maureen, your ex-wife, his
18 sister?

19 A Yes.

20 Q The rental properties that the company managed were
21 located where?

22 A Sandbridge, in Virginia Beach.

23 Q How many properties were there that the company
24 managed in Virginia Beach?

25 A Two.

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1 Q Do you recall whether those properties had names?

2 A Yes. East Coast Palace and Sunseeker.

3 Q Do you recall approximately when the first of those
4 two homes was purchased by the partnership?

5 A Sunseeker was 2005, and East Coast Palace was 2006, I
6 think.

7 Q Are those two houses physically close to one another
8 in Virginia Beach?

9 A Across the street from each other.

10 Q You mentioned that the company was formed by
11 Mr. McDonnell and his sister. Do you know what the
12 division of ownership was between them in terms of
13 proportion?

14 A 50/50.

15 Q I take it then that you yourself were not an owner?

16 A No.

17 Q Did you perform any services on behalf of MoBo?

18 A I did, kept track of bookkeeping, kept track of the
19 statements that the realty company or the management
20 company for the two properties sent, and paid bills.

21 Q During what time period did you perform those
22 services?

23 A 2005 until our separation in 2012.

24 Q Which you said was in October of 2012; is that right?

25 A Yes.

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1 Q Is 2005 when this business entity was first created?

2 A Yes.

3 Q So you started performing these services from the
4 get-go until your separation from your ex-wife?

5 A Right.

6 Q Were you paid for the duties that you performed?

7 A At the beginning, I was. I don't know exactly when I
8 stopped being paid, but --

9 Q Are you a CPA, sir?

10 A No.

11 Q Did you do any formal accounting work for MoBo?

12 A No.

13 Q Did you prepare the taxes for MoBo?

14 A No.

15 Q Did you work with any accounting or tax professionals
16 to accomplish those tasks?

17 A Yes.

18 Q Who do you recall working with?

19 A Dan Cook and Brenda Chamberlain.

20 Q Who is Mr. Cook?

21 A He is the accountant that we used.

22 Q What about Ms. Chamberlain?

23 A She was the bookkeeper.

24 Q How frequently would you interact with them to help
25 them do their jobs?

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1 A Dan Cook, at tax time, to give him all the
2 information, make sure he had all the information or
3 answer any questions that he had. And then Brenda, a few
4 times throughout the year I would send her just the bills
5 and numbers or statements that we got from Sandbridge
6 Realty.

7 Q For her work as the bookkeeper?

8 A Right.

9 Q From time to time, would Ms. Chamberlain or Mr. Cook
10 provide you with copies of work product they did, whether
11 it was tax returns in the case of Mr. Cook, or copies of
12 QuickBooks and the like in the case of Ms. Chamberlain?

13 A She usually sent them directly to Dan Cook, and then
14 he would give us the tax return at the end of the year.

15 Q Who is "us"?

16 A Maureen and I.

17 Q Just so we are clear in the record, your wife at the
18 time?

19 A Right.

20 Q Let's go back to 2005 or thereabouts when Sunseeker,
21 the first of the two, was purchased. In retrospect, where
22 was the market then, if you recall generally?

23 A At the height.

24 Q And have real estate values fallen since Sunseeker
25 and later East Coast Palace was purchased?

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1 A Yes.

2 Q In fact, did the real estate values begin to fall
3 shortly after those homes were purchased?

4 A Yes.

5 Q What is your recollection of how the properties did
6 in terms of rental income versus expenses year to year?
7 On that metric, did they make money, to your recollection,
8 or did they lose money?

9 A Lost money.

10 Q And again, on an annual basis in terms of cash flow,
11 say during the last five years you were working there,
12 2008 to, I guess, 2012, do you have any recollection of
13 the approximate amount of money that the properties lost
14 in terms of cash flow each year?

15 A Between the two of them?

16 Q Yes, sir.

17 A 50 to \$60,000.

18 Q Now, to be fair, was your understanding that a
19 business purpose for MoBo was to make a bunch of money on
20 these homes?

21 A It was always to -- for long term investment. It was
22 for long term investment and enjoyment. We knew out of
23 the gate that they weren't going to make money.

24 Q Okay. And in fact, they didn't.

25 A Right.

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1 Q Now, did there come a time, let's say approximately
2 2009, when there were some discussions about trying to
3 sell the homes?

4 A Yes.

5 Q Could we put the first exhibit for identification up
6 on the screen, which is Government's 48. Mr. Uncapher,
7 take a look at that screen there, and we will blow up the
8 top and scroll down to the bottom form, please, so he can
9 identify the document. Can you see this okay, sir?

10 A Yes.

11 Q Go back to the top, please. My question for you,
12 sir, is whether this is an e-mail exchange in the 2009
13 time frame concerning putting the homes on the market.

14 A Yes.

15 MR. HARBACH: The government offers Government's
16 48.

17 THE COURT: It will be admitted.

18 BY MR. HARBACH:

19 Q Let's start at the bottom, please, with at least the
20 beginning of the e-mail from someone named Tom Bucker.
21 Who is that?

22 A Real estate agent at Sandbridge Realty.

23 Q The e-mail that Mr. Bucker has addressed his e-mail
24 to, mcdonnell71@cox.net, do you know whose
25 retail -- e-mail address that was?

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1 A My wife, Maureen.

2 Q Your wife, Maureen.

3 A Yes.

4 Q Let's scroll up, please, to the next e-mail. It
5 says, the signature block on this one is from Maureen
6 McDonnell Uncapher. That's your then wife, right?

7 A Right.

8 Q And do you recall what her reference to the Seibert
9 folks means?

10 A Seibert was just the competing real estate company.

11 Q Okay. Then if we could scroll up to the top, the
12 e-mail from Mr. McDonnell, and what's the date of the
13 e-mail that Mr. McDonnell sends to his sister?

14 A April 24th, 2009.

15 Q If we could take that one down. The next one is
16 Government's 49 for identification. Same drill. If you
17 could blow it up for him a little bit. Take a look at
18 that, sir, then I'll scroll down for you. Go ahead,
19 Mr. Starnes. Thank you.

20 MR. HARBACH And with the Court's indulgence, we
21 will show him Page 2 just so he can identify it, please.

22 BY MR. HARBACH:

23 Q Mr. Uncapher, do you recognize this as an e-mail
24 exchange in August of 2009, again, about the attempts to
25 sell the homes?

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1 A Yes.

2 MR. HARBACH: The government offers Government
3 Exhibit 49.

4 THE COURT: It will be admitted.

5 BY MR. HARBACH:

6 Q I'd like to start at Page 2, the very first e-mail on
7 the chain, at the bottom. Could you just blow that one up
8 for us. This is an e-mail from your then wife to
9 Mr. McDonnell and you; is that right?

10 A Yes.

11 Q Okay. And she is talking about dropping the price on
12 Sunseeker to 1.399k from a higher price. Is it your
13 recollection that the Sunseeker property was actually on
14 the market at this time in August of 2009?

15 A I believe so.

16 Q All right. Then a little bit later in the paragraph
17 there is a sentence that begins "For ECP." Is that East
18 Coast Palace, the other house?

19 A Yes.

20 Q And in this one, your then wife is reporting that she
21 recommended listing at 900,000. Does that mean that folks
22 were contemplating putting ECP on the market at that time
23 or do you remember whether it was in fact already on the
24 market?

25 A I don't remember.

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1 Q Then finally, in that e-mail, she says, "We will
2 either need to take a hit on the sales price or come up
3 with 60k in a few months to make it through another off
4 season."

5 What was significant about the off season to your
6 recollection?

7 A Less rental.

8 Q Say again?

9 A Less rental income.

10 Q Did that make it more difficult to get through?

11 A Yes.

12 Q Financially speaking?

13 A Well, it was definitely not even throughout the year
14 as far as income.

15 Q Then if we could just go back to Page 1 just to see
16 how this turns out. The second e-mail from the top is the
17 one I care about, please, Mr. Starnes. Now, the second
18 one on the screen from your then wife, Mr. McDonnell's
19 sister, she mentions somebody called Gail, and says she is
20 going to go ahead and lower the price. Was Gail a real
21 estate agent, I take it?

22 A Yes.

23 Q That's it for 49. Next document is Government's 51
24 for identification. Again, scroll down so he can see the
25 whole thing to identify it, please. Mr. Uncapher, do you

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1 recognize this to be an e-mail exchange involving, among
2 other people, you, your then wife, and Mr. McDonnell
3 involving sale of the house?

4 A Yes.

5 MR. HARBACH: The government offers Government's
6 51.

7 THE COURT: It will be admitted.

8 BY MR. HARBACH:

9 Q On this one, the first e-mail chronologically is from
10 you, and what's the date on there?

11 A December 4th, 2009.

12 Q It is sent to Mr. and Ms. McDonnell and in addition,
13 your then wife; is that right?

14 A Yes.

15 Q You say, "Any luck finding a magical partner?" What
16 does that mean?

17 A We were looking for, or had talked about finding
18 somebody that was interested in either buying or becoming
19 an investor in the properties.

20 Q When you say "we," we are talking about that, who do
21 you mean, sir?

22 A Bob, Maureen, Maureen, and myself.

23 Q Bob, meaning Mr. McDonnell?

24 A Right.

25 Q Both Maureens?

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1 A Yes.

2 Q And you.

3 A And myself.

4 Q The next e-mail, that's from the Governor's sister,
5 right, your then wife?

6 A Right.

7 Q And could you read just the first couple of sentences
8 that she writes there, please, beginning with "In other
9 words..."?

10 A "In other words, we are in trouble and need to act
11 now. We can look into a short sale, but we need to come
12 up with a buyer first. I understand short sales will not
13 hurt our credit, unlike bankruptcy."

14 Q That's enough, sir. Thank you. First question is,
15 what is your recollection of why you were in trouble?

16 A Just there was a shortfall every year. That's what I
17 believe she is talking about.

18 Q Financially speaking?

19 A Just the shortfall for income versus revenue of the
20 properties.

21 Q Okay. She then states, "We can look into a short
22 sale but we need to come up with a buyer first." Do you
23 know what a short sale is?

24 A Vaguely.

25 Q Tell us your best understanding then.

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1 A That the property is sold for less than it's worth,
2 or less than is owed on it.

3 Q Okay. Then the next sentence is: "I understand
4 short sales will not hurt our credit, unlike bankruptcy."
5 Do you have a recollection of bankruptcy being discussed
6 among this group of people at the time as a possibility?

7 A No.

8 Q The very end of her e-mail, she states: "From what
9 Mike indicated last month, we need money now to make
10 December payments." What did you understand that to mean?
11 What are the December payments that needed to be made?

12 A Mortgage, mortgages of the properties.

13 Q Then if we could scroll up to the top, Mr. McDonnell
14 responds and says, "We are working on a couple of ideas."
15 Please, could you just note for us the date of his e-mail?

16 A December 4th, 2009.

17 Q Was that after he had won the election to become
18 Governor?

19 A Yes.

20 Q But before he was inaugurated?

21 A Right.

22 Q That's it for 51. Did the houses sell in 2009?

23 A No.

24 Q You have testified a couple times in reference to
25 these e-mails about a cash shortfall that you all

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1 encountered from year to year, I think you said; is that
2 right?

3 A Yes.

4 Q Generally speaking, how did the -- how did the
5 business deal with that cash shortfall each year? In
6 other words, what sorts of arrangements would be made to
7 overcome those issues?

8 A Maureen and Bob put money into the -- personal money
9 into the account. We had a line of credit that we used
10 for expenses. And then we got a couple of loans from
11 other people.

12 Q All right. So when you say, "Bob and Maureen could
13 invest further themselves in the business," you are
14 talking about the business owners, Mr. McDonnell and his
15 sister.

16 A Yes.

17 Q Now, the loans that you mentioned a moment ago, do
18 you recall someone named Dr. Davis?

19 A Yes.

20 Q Was he among the people that a loan was obtained from
21 to deal with these cash shortfalls?

22 A Yes.

23 Q Who is Dr. Davis?

24 A He was a friend of Bob and Maureen's.

25 Q Do you recall what sort of doctor he was?

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1 A Radiologist.

2 Q Did you ever meet him?

3 A I did.

4 Q Tell us about that.

5 A I first met him at a Christmas party.

6 Q Do you recall when that was?

7 A It was Scott Rigell's Christmas party, I think, in
8 December of 2010.

9 Q And how did you learn that Dr. Davis was going to
10 provide a loan? If you recall?

11 A I don't remember.

12 Q Okay. Did you ever have any conversation with
13 Mr. McDonnell about that possibility, to your
14 recollection?

15 A I don't remember a specific conversation. But, I
16 mean, I was told either by him or Maureen --

17 Q Which Maureen, sir?

18 A My wife at the time.

19 Q That?

20 A That we were going to go to Dr. Davis' house to talk
21 to him.

22 Q And did you in fact do that?

23 A Yes.

24 Q Do you recall when it was that you went to meet with
25 Dr. Davis?

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1 A I don't know the exact month.

2 Q Okay. We will get to a document that can help you
3 with the date in a moment. Let me ask you this before we
4 get there. Who went over there besides yourself?

5 A My wife, Maureen.

6 Q The two of you?

7 A Yes.

8 Q What happened when you got there?

9 A We talked with him and had lunch, and it was more
10 social for most of it, and most of the time. I think we
11 were there for about an hour.

12 Q What else happened besides lunch?

13 A And then talked about the loan, him giving us money
14 for a loan.

15 Q Did he in fact do that at that meeting?

16 A Part of it, I think.

17 Q Now, how long would you say it was after you met Dr.
18 Davis at the Christmas party that you went to his house?

19 A A few months.

20 Q Could we take a look for identification at
21 Government's 55, please? Take a look at that,
22 Mr. Uncapher. Do you recognize these documents?

23 A Yes.

24 Q Is this a check and deposit slip related to monies
25 that Dr. Davis provided at that meeting at his place?

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1 A It looks like it.

2 MR. HARBACH: The government offers Government's
3 55.

4 THE COURT: It will be admitted.

5 BY MR. HARBACH:

6 Q Let's start at the bottom with the check, please.
7 Could we blow that up? What's the date on this check,
8 sir?

9 A December 19th.

10 Q What year?

11 A 2009.

12 Q You said a moment ago that you thought the Christmas
13 party may have been in 2010. Does this change your view
14 of that?

15 A Yes.

16 Q What year do you think the Christmas party was?

17 A 2009.

18 Q Okay. And did Dr. Davis provide this check to you
19 and your sister at his home that day?

20 A I believe so.

21 Q All right. Now, let's scroll up to the top, please,
22 and see the very first document. This appears to be a
23 deposit slip to a bank called TowneBank, and the name up
24 there, it says MoBo Real Estate Partners. Is that your
25 handwriting, by chance?

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1 A Yes.

2 Q And then on the right-hand side of the slip, it
3 indicates \$100 is in the cash block, and \$9,900 for a
4 check. Is this the deposit slip for monies you received
5 from Dr. Davis, sir?

6 A Yes.

7 Q Now, did he give you a check for \$9,900 and \$100
8 cash?

9 A I don't remember.

10 Q Do you remember where the \$100 cash came from?

11 A No.

12 Q In any event, all \$10,000 was deposited to MoBo's
13 account on the same day; is that right?

14 A Right.

15 Q And just so we can show the jury, the last part of
16 this document, scroll down a little bit, that's the teller
17 receipt for \$100 cash, right?

18 A Right.

19 Q Let's take down Government's 55, please. A moment
20 ago you said that at the meeting at his house, Dr. Davis
21 advanced part of the monies that he ultimately loaned
22 MoBo. Did there come a time after that where he provided
23 additional funds, additional loan proceeds?

24 A Yes.

25 Q Let's take a look at Government's 59, please. Blow

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1 this up for the witness. Do you recognize this to be a
2 later check that Dr. Davis provided for MoBo?

3 A Yes.

4 Q And the associated deposit slip.

5 A Yes.

6 MR. HARBACH: Your Honor, the government offers
7 Government's 59.

8 THE COURT: It will be admitted.

9 BY MR. HARBACH:

10 Q Now, the check at the bottom of the screen here, this
11 one is dated February 6th of 2010. And it looks as if it
12 was deposited on the 8th. Do you recall the circumstances
13 of how you all received this check?

14 A I don't remember.

15 Q You don't remember? So now we are up to in the
16 neighborhood of \$30,000, correct?

17 A Right.

18 Q Was this the end of the line or were there additional
19 funds after this to your recollection?

20 A There was a total of 50.

21 Q A total of \$50,000?

22 A Right.

23 Q Now, let's take a look then, actually, you can take
24 59 down. Let's take a look at Government's 61, please.
25 Do you recognize this document, sir, to be an additional

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1 check that Mr. Davis -- Dr. Davis provided to MoBo?

2 A Yes.

3 Q And the associated deposit slip?

4 A Yes.

5 MR. HARBACH: The government offers Government's
6 61.

7 THE COURT: It will be admitted.

8 MR. HARBACH: Can I have just a second, please?

9 THE COURT: Yes.

10 (Counsel conferring with co-counsel.)

11 BY MR. HARBACH:

12 Q Now, the date on this check, sir, is March 15th of
13 2010. It appears that it was deposited five days later on
14 the 15th. Do you have a recollection of how you all
15 obtained this check from Dr. Davis?

16 A I believe we went to -- I went to his house, but I
17 don't exactly recall.

18 Q And the handwriting on this deposit slip at the top,
19 is that you again?

20 A Yes.

21 Q Before we go on, because I forgot to ask you this,
22 could we take a look at Government's 59, which is in
23 evidence, just for a second? Blow up that top deposit
24 slip for the witness, please. Thank you, Mr. Starnes. Do
25 you recognize the handwriting on this deposit slip, sir?

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2701

1 A No.

2 Q You can take that down. So to this point, we have
3 two checks for \$20,000, correct?

4 A Yes.

5 Q And then one check for \$9,900, correct?

6 A Yes.

7 Q So that's a total of \$49,900; am I right about that?

8 A Yes.

9 Q You said a moment ago that the total amount that was
10 loaned by Dr. Davis was \$50,000. Do you recall that?

11 A Yes.

12 Q Does that help you remember whether that additional
13 hundred dollars in cash was part of the Dr. Davis loan?

14 A I assume it is.

15 Q Okay. Let's take a look -- actually, before we look
16 at the next exhibit, I think you said that the March 15th
17 of 2010 check that we just looked at, that was
18 Government's 61, did you say that you think you got that
19 at Dr. Davis' house again?

20 A I think so.

21 Q Who was there that day, if you remember?

22 A I don't remember.

23 Q Do you remember anything else that happened that day
24 besides picking up the check?

25 A No.

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2702

1 Q At any time, was there a promissory note signed as to
2 any portion of these loan proceeds?

3 A We did sign a promissory note.

4 Q Let's take a look at Government's 60, please. Is
5 this the promissory note you just mentioned?

6 A Yes.

7 MR. HARBACH: The government offers Government's
8 60.

9 THE COURT: It will be admitted.

10 BY MR. HARBACH:

11 Q What's the date on this promissory note, sir?

12 A March 15th, 2010.

13 Q That's the same day that was on the check that was on
14 Government's 61 we looked at a minute ago, right?

15 A Right.

16 Q Do you recall whether this promissory note, was that
17 also signed at Dr. Davis' home or done later in the day or
18 what's your memory of that?

19 A It was signed by Maureen and I on that day.

20 Q Okay. Do you know when your brother-in-law, your
21 ex-brother-in-law, Mr. McDonnell, signed it?

22 A No.

23 Q That is your signature that appears at the bottom?

24 A Yes.

25 Q Do you recall yourself, do you recall having any

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1 discussions with Dr. Davis about the promissory note or
2 the necessity for it?

3 A No.

4 Q What was, according to the promissory note, if we
5 could blow up the text of the note, please, without the
6 signature blocks. Thank you, Mr. Starnes. The principal
7 sum is how much money?

8 A \$50,000.

9 Q What's the interest rate on this loan?

10 A Seven percent.

11 Q The repayment term? How many years?

12 A Five years.

13 Q Thank you, sir. It indicates a monthly payment of
14 how much, sir?

15 A \$1,001.90.

16 Q Say that again.

17 A \$1,001.90.

18 Q Thank you, sir. Could we take a look for
19 identification now at Government's 622. Do you recognize
20 this, sir?

21 A Yes.

22 Q This is an amortization schedule for the Dr. Davis
23 loan.

24 A Right.

25 Q Did you prepare this thing?

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2704

1 A Yes.

2 MR. HARBACH: The government offers Government's
3 622.

4 THE COURT: It will be admitted.

5 BY MR. HARBACH:

6 Q Blow up the top of the form so we can explain this to
7 the jury. What's this document, sir? What's its purpose?

8 A To see how each payment is broken down and what the
9 balance is at the end of each month.

10 Q Okay. And so the interest and principal together
11 should be that \$1,001.90 that was reflected in the
12 promissory note?

13 A Right.

14 Q Thank you. You can take down 622. That's it for the
15 Dr. Davis loan.

16 Do you recall whether there was another person who
17 provided -- withdrawn. Do you recall whether
18 Mr. McDonnell's father ever provided a loan to the
19 business?

20 A Yes.

21 Q What do you know about that?

22 A I don't even remember how much it was, but Maureen
23 and Bob talked with their sister because she was in charge
24 of their dad's money.

25 Q When you say Maureen and Bob, you mean --

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2705

1 A My wife.

2 Q Your wife, and then yet another sister that they
3 talked to?

4 A Right.

5 Q Do you recall her name?

6 A Eileen.

7 Q Okay. And I heard you say you don't remember much
8 about it. Do you remember even approximately how much it
9 was, sir?

10 A No.

11 Q Were you interviewed by the FBI approximately a year
12 ago about this?

13 A Yes.

14 Q And did you answer their questions?

15 A Yes.

16 MR. SMALL: I have a running objection to the
17 prior loans from the father just as to relevance. I will
18 stipulate that they were loans.

19 THE COURT: Overruled.

20 MR. HARBACH: Can I tender the report to the
21 witness, Judge?

22 THE COURT: Go ahead.

23 (Document proffered to witness.)

24 BY MR. HARBACH:

25 Q Mr. Uncapher --

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2706

1 MR. HARBACH: Just for the record, I've tendered
2 to the witness a copy of the Report of Interview from his
3 meeting with the FBI that he just talked about.

4 BY MR. HARBACH:

5 Q If I could direct your attention, sir, to Page 3, the
6 second paragraph. It begins with the word "Regarding."
7 Do you see that there?

8 A Yes.

9 Q Just read that paragraph to yourself, let me know
10 when you are done, and then I'll ask you a question.

11 (Witness perusing document.)

12 A Okay.

13 Q My question to you is whether that refreshes your
14 recollection at all about the approximate amount of the
15 loan that was obtained from Mr. McDonnell's father.

16 A Yes.

17 Q And what was that approximately, to your
18 recollection?

19 A Over a hundred thousand dollars.

20 Q Thank you, sir. You can put that down. Now, the Dr.
21 Davis promissory note that we saw a little while ago was
22 signed in March of 2010. I'm going to ask you to fast
23 forward with me to early 2011. Okay, so nearly a year
24 later. Do you recall an effort to refinance various bank
25 loans for the rental properties in early 2011?

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1 A I remember trying to refinance. I don't exactly
2 remember dates.

3 Q Okay. Let's take a look for identification at
4 Government's 84, please. Just blow the content up for the
5 witness. Take a look at this for a minute and then I'll
6 ask a question. Can you see that okay?

7 A Yes.

8 Q Do you recognize this to be an e-mail exchange about
9 refinancing the loans on the rental properties?

10 A Yes.

11 MR. HARBACH: The government offers Government's
12 84.

13 THE COURT: It will be admitted.

14 BY MR. HARBACH:

15 Q Let's start with the e-mail at the bottom.
16 Mr. Starnes, if you could go out and zoom back in a little
17 bit because that's small text. It would be useful. Thank
18 you. This first e-mail is dated January 5th of 2011. It
19 is from Mr. McDonnell. And it begins with "Ted and I had
20 a good meeting." Do you recall who Ted is, sir?

21 A Ted Yoder.

22 Q Who is that?

23 A He was with Monarch Mortgage.

24 Q He worked for a mortgage company?

25 A Right.

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2708

1 Q Next sentence says: "He has a plan to refinance all
2 five loans as interest only at five percent," and so on.

3 When Mr. McDonnell says "all five loans," do you have
4 a recollection about what that refers to?

5 A I believe three loans for Sunseeker, one loan for
6 ECP, and one loan for a house in Wintergreen.

7 Q Okay. Which we will talk about in just a second. A
8 little bit further down in that paragraph, there is a
9 sentence that says: "This gets us halfway to savings we
10 need." My question for you is, do you have a recollection
11 of what you understood Mr. McDonnell to mean by that, what
12 the savings was that you all needed?

13 A I would be guessing at what his --

14 Q I don't want you to guess. My question is, do you
15 remember whether you had any conversations with him on
16 that issue around that time or have any recollection of
17 what you understood him to be talking about?

18 A Just getting a better rate for the loans.

19 Q Okay. Let's scroll up a little bit. This is your
20 response to Mr. McDonnell's e-mail on January 5th, same
21 day. And you say here: "We need to talk about BRH."
22 What's that?

23 A Blue Ridge Heaven.

24 Q Could you explain to the jury what Blue Ridge Heaven
25 is, please?

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2709

1 A That's a house in Wintergreen.

2 Q This is the same home you mentioned a moment ago?

3 A Right.

4 Q Do you recall who owned that vacation home?

5 A Bob and his wife and Maureen, my wife, and their
6 sister, Eileen, bought in later.

7 Q So in addition to Mr. McDonnell and his wife,
8 Mr. McDonnell's sister, Maureen, and you, were you an
9 owner as well or no?

10 A I was on the deed but not on the mortgage.

11 Q Okay. Then a new party, an additional sister of
12 Ms. McDonnell, Eileen and her husband; have I got that
13 right?

14 A Right.

15 Q Okay. So last question at the top of this e-mail,
16 there is a reference to Wintergreen. That's the same
17 house as BRH, right?

18 A Right.

19 Q So the partnership that you described just now with
20 respect to Wintergreen, was that just a single property?

21 A Yes.

22 Q Were you involved yourself at all in handling the
23 finances for Blue Ridge Heaven?

24 A In the same capacity as I did for the beach
25 properties.

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2710

1 Q For MoBo.

2 A Right.

3 Q Okay. You can take that down. Next document I'd
4 like to show you is Government Exhibit 90 for
5 identification, please. Scroll down for him so he can see
6 the rest. Thank you, Mr. Starnes. Do you recognize this
7 to be an e-mail exchange among you, your then wife, and
8 Mr. McDonnell about loan payments related to MoBo?

9 A Yes.

10 MR. HARBACH: The government offers Government's
11 90.

12 THE COURT: It will be admitted.

13 BY MR. HARBACH:

14 Q And we can start at the bottom. This e-mail bleeds
15 on to the next page, but let's start here. What date did
16 you send this e-mail, sir?

17 A March 9th, 2011.

18 Q You say, "Here is the breakdown for what is owed for
19 February and March." What's NFCU?

20 A Navy Federal Credit Union.

21 Q TB 1?

22 A TowneBank.

23 Q TB 2?

24 A TowneBank as well.

25 Q And then Bank at Lantec. Is that just another loan?

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1 A Right.

2 Q At least on this page, that's four different loans?

3 A Right.

4 Q Okay. And then let's look at the next page. You
5 tally up those payments for February and March there. And
6 then it says Bob and Mo. Who is the Mo there?

7 A My wife.

8 Q That's split in half because they were 50/50
9 partners?

10 A Right.

11 Q Now, you say, "Regular payments for mortgages only
12 are," and then the four different mortgages listed there.
13 Have I got that right?

14 A Yes.

15 Q So that total that's listed there, \$11,557.23 on the
16 second page of Government's 90, what does that represent?

17 A The total for the mortgages of the two beach
18 properties.

19 Q That's a monthly payment?

20 A Right.

21 Q And that's what you say in the next sentence. Now,
22 you also say, "I sent an e-mail to TB..." is that
23 TowneBank?

24 A Yes.

25 Q "...this morning letting them know I would be getting

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1 both loans up-to-date by this Friday." Were you a little
2 behind on those payments at this stage?

3 A Yes.

4 Q Now, finally, if we could go back to Page 1 of
5 Government's 90, down here, same e-mail, your opening
6 sentence, you say, "Here is the breakdown for what is owed
7 for February and March." Why were you doing this? Why
8 did you prepare and send this e-mail to Mr. McDonnell and
9 your wife?

10 A So that they could put money into the bank to pay the
11 mortgages.

12 Q Take down Government's 90. Next document is
13 Government's 91, please. We are still in March of 2011,
14 but take a look at this one for identification, please.
15 Do you recognize this to be an e-mail exchange that you
16 and others were on concerning the attempt to refinance the
17 loans on the homes?

18 A Yes.

19 Q Or some of the loans.

20 MR. HARBACH: The government offers Government's
21 91.

22 THE COURT: It will be admitted.

23 BY MR. HARBACH:

24 Q Let's start at the bottom, please. We will just
25 scroll up. You can see what Mr. McDonnell says, it is an

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1 e-mail to Mr. Yoder on March 21st, Mr. Yoder's response.
2 And the date of this e-mail is March 24th of 2011. My
3 question for you, sir, is Mr. Yoder refers in his second
4 sentence there, "I recommend that you let Bruce and I work
5 on a private solution for you." What did you understand
6 that to mean?

7 A I didn't know.

8 Q Do you recall having any discussions with
9 Mr. McDonnell about a private solution or a private
10 proposal, as he refers to it in the next e-mail?

11 A He directed me to talk to or call Bruce Thompson.

12 Q Who is that?

13 A A developer in Virginia Beach.

14 Q For what purpose?

15 A Just to get his advice.

16 Q On?

17 A On I didn't know what at the time.

18 Q Did you have a conversation with Bruce?

19 A I did.

20 Q Did it concern an alternative financing proposal?

21 A It wasn't about financing, it was more marketing.

22 Q Okay. Were you involved in any way with discussions
23 with Mr. Yoder about the refinance issue?

24 A No.

25 Q Okay. If we could look at the e-mail at the top of

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1 the screen right now, which is the one from Mr. McDonnell.

2 A little bit later on, he refers to someone named Will,
3 says, "Will is helping with 2.75 percent on both loans for
4 a year." Do you recall who Will is?

5 A Will Sessoms, President of TowneBank.

6 Q Okay. And then finally, the e-mail at the top, this
7 is from your ex-wife, correct?

8 A Yes.

9 Q Could you read to us what she says there?

10 A "What an unfortunate waste of time. Thanks for all
11 you are doing, Bob. Mike--can you get on the phone with
12 John Bishard tomorrow. I can participate a few times
13 during the day if desired."

14 Q Who is John Bishard?

15 A He is a developer in Virginia Beach.

16 Q Is that you, are you the Mike she is directing to get
17 in touch with him?

18 A Yes.

19 Q What was that all about?

20 A I don't know. I never talked to him.

21 Q Finally there is an e-mail at the top that says
22 mmeml@mac.com. Is that your e-mail address, sir?

23 A Yes.

24 Q That's it for 91. Did you ever meet Mr. Jonnie
25 Williams?

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1 A No.

2 Q Did you ever speak to him?

3 A Yes.

4 Q Tell us what you recall about that, the first time
5 you spoke to Mr. Williams.

6 A I talked first with Maureen, Bob's wife, and I don't
7 recall if she called me or I called her, and there was
8 phone calls back and forth to try to get in touch, so I
9 talked to her first and Jonnie was with her at the time.

10 Q Okay.

11 A And she passed the phone to him to talk to me.

12 Q And do you recall what your conversation with
13 Ms. McDonnell was during that call?

14 A She said that Jonnie was there to talk about either
15 buying or investing in the properties, the beach
16 properties.

17 Q Did you, tell us what you recall about your
18 conversation with Mr. Williams after she put him on the
19 phone.

20 A I told him what we owed on each property and what the
21 approximate revenue and expenses or shortfall was for the
22 property.

23 Q Okay. Do you recall approximately when this
24 telephone call took place, sir?

25 A I don't. I don't remember.

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1 Q Take a look at that document that's in front of you.

2 I'm going to direct your attention to Page 3, please.

3 There is a paragraph in the middle of the page that

4 begins, "Regarding the loans..." Do you see that, sir?

5 A Yes.

6 Q Just take a minute, read that paragraph to yourself

7 and let me know when you are done.

8 (Witness perusing document.)

9 A Okay.

10 Q Does that refresh your recollection about when this

11 first time you talked to Mr. Williams was, approximately?

12 A In 2011.

13 Q Approximately when in 2011, sir?

14 A Summer.

15 Q Thank you. Now you can put that down. Focusing on

16 this conversation that happened sometime in the summer of

17 2011, do you recall whether Mr. Williams asked you any

18 questions during that call?

19 A Just about the information that I gave him.

20 Q And did a similar incident to the one you have just

21 described occur again several months later?

22 A Yes.

23 Q Tell us what you remember about that.

24 A It was basically the exact same conversation. I had

25 talked to Maureen first, and she passed the phone to

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1 Jonnie Williams, and I explained the financial situation
2 of the two properties.

3 Q And do you recall anything about your conversation
4 with Ms. McDonnell before she passed the phone to
5 Mr. Williams?

6 A Same thing. She said that he was basically following
7 up from the previous conversation, and just wanted an
8 updated version.

9 Q And based on your conversations on the two occasions
10 with Ms. McDonnell, what did you understand from her to be
11 Mr. Williams' interest?

12 A Either buying or investing.

13 Q Okay. Now, same question as before: Do you recall
14 approximately when this second phone conversation was?

15 A Early, 2012.

16 Q And do you recall, other than asking the questions
17 that prompted you to provide the same information as
18 before, do you recall any other comments or questions by
19 Mr. Williams during that call, sir?

20 A No.

21 Q How long would you say you talked to him on each of
22 these occasions?

23 A 10 or 15 minutes.

24 Q Between the two or each?

25 A Between the two. I'm sorry, each phone call, is that

MICHAEL UNCAPHER - DIRECT

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1 what you are asking?

2 Q Yes, sir.

3 A The same for each phone call.

4 Q Let's take a look for identification at Government's
5 295, please. Just scroll down for him so he can see the
6 e-mail at the bottom. Sir, do you recognize this to be an
7 e-mail that you sent to Mr. and Ms. McDonnell and some
8 additional e-mail traffic between them?

9 A Yes.

10 MR. HARBACH: The government offers Government's
11 295.

12 THE COURT: It will be admitted.

13 BY MR. HARBACH:

14 Q Let's start at the bottom, please, which is what's on
15 the screen right now. Your first paragraph there, you
16 say, "I just wanted to follow up from our meeting." Do
17 you recall what that meeting was about?

18 A Not specifically. No, I don't.

19 Q Okay. The date of this e-mail that you are sending
20 is January 25th of 2012; is that right?

21 A Right.

22 Q The next paragraph says: "Could you please send a
23 check for \$1,000 for your portion of past pay-in for BRH?"
24 That's the property in Wintergreen?

25 A Right.

MICHAEL UNCAPHER - DIRECT

2719

1 Q It says Mo and Boo have both put money in and so
2 forth. Is Mo your ex-wife?

3 A Yes.

4 Q Who is Boo?

5 A Eileen, their sister.

6 Q The other sister.

7 A Right.

8 Q Okay. Then a little bit down, further down there,
9 the last line on the screen says: "For MoBo, I talked
10 with your Mo..." Who is that?

11 A Maureen, his wife.

12 Q "...last week and she had me talk to the guy who is
13 helping us." Who were you referring to when you said "the
14 guy who was helping us"?

15 A Jonnie Williams.

16 Q It then says, "He said he was going to call me the
17 next day to get an address so he could send the first
18 check." Who is the "he" in that sentence?

19 A Jonnie Williams.

20 Q Had he in fact said that to you?

21 A Apparently.

22 Q Do you have a recollection of it, sir?

23 A No.

24 Q And then the e-mail says, "I did not hear from him
25 and I left Mo..." and which Mo is that?

MICHAEL UNCAPHER - DIRECT

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1 A Maureen, his wife.

2 Q "...a message yesterday. We will need to get that in
3 the next week so we can keep up-to-date." You need to get
4 what, sir?

5 A The check.

6 Q Now, if we can go back to Page 1. Well, just
7 let -- you are not on either of these e-mails, are you,
8 sir?

9 A No.

10 Q We will let the jury take a look at them for a second
11 and then I'll move on. Okay, you can take down 295,
12 please.

13 Now, at the time that you sent the e-mail we were
14 just looking at, which to remind you was January 25th of
15 2012, did you know the amount of money that Mr. Williams
16 was going to be providing?

17 A No.

18 Q To your recollection, did MoBo eventually receive
19 some money from Mr. Williams?

20 A Yes.

21 Q How much?

22 A I don't recall the total.

23 Q Do you recall a \$50,000 amount in approximately March
24 of 2012?

25 A Yes.

MICHAEL UNCAPHER - DIRECT

2721

1 Q And then a \$20,000 amount in approximately May of
2 2012?

3 A That sounds right.

4 Q Do you recall, specifically with respect to the
5 \$50,000 payment, how you learned about that?

6 A No.

7 Q What about the \$20,000 payment?

8 A No.

9 Q Do you recall at all being involved in communications
10 concerning some wire instructions?

11 A Yes.

12 Q Let's take a look at those. We can start with
13 Government's 381 for identification, please. This looks a
14 little strange. I'm going to represent to you that it is
15 a text message from Mr. McDonnell to you. Okay?

16 A Right.

17 Q And does it concern the wiring instructions that we
18 were just -- that you just testified about?

19 A Yes.

20 MR. HARBACH: The government offers Government's
21 381.

22 THE COURT: It will be admitted.

23 BY MR. HARBACH:

24 Q Can you just read to us the text there, sir, from
25 what Mr. McDonnell sends to you?

MICHAEL UNCAPHER - DIRECT

2722

1 A "Can you send wiring instructions to Jonnie Williams
2 for sending 20k to MoBo account."

3 Q You don't need to read the phone number. It just
4 says, "Thx, Bob" there at the bottom?

5 A Yes.

6 Q What's the date of that one according to the time
7 stamp?

8 A May 18th, 2012.

9 Q Finally, take a look at Government's 385. Just blow
10 that one up for the witness, please. Same deal here, this
11 is, I'm going to represent to you that this is a text
12 message, okay, from Mr. McDonnell to you. All right?

13 A Right.

14 Q Does this also concern those wiring instructions?

15 A Yes.

16 MR. HARBACH: The government offers Government's
17 385.

18 THE COURT: It will be admitted.

19 BY MR. HARBACH:

20 Q Looking at the bottom, sir, what's the date on this
21 one?

22 A May 18th, 2012.

23 Q Could you read to us just what the text says?

24 A "Michael, Jonnie's instructions. Can you do Monday,
25 Bob. Hi Michael, call my secretary Monday early afternoon

MICHAEL UNCAPHER - DIRECT

2723

1 she returns and will promptly wire money. Jerri
2 Fulkerson."

3 Q You can skip the number. Thank you. Do you recall
4 having any conversations with Mr. McDonnell about any of
5 the terms regarding this money from Mr. Williams?

6 A He said he was working out the terms. That's all
7 I --

8 Q Do you recall what the duration of the loans was
9 going to be?

10 A No.

11 Q What about whether there were any payments due on a
12 monthly basis for the loans?

13 A I don't know.

14 Q Okay. Could you take a look with me, please, at Page
15 4 of that same report that's in front of you, sir. There
16 is a paragraph -- are you on Page 4, sir?

17 A Yes.

18 Q There is a paragraph near the top that begins "Over
19 the next few months..." Do you see that there?

20 A Yes.

21 Q Same drill. Could you just read that paragraph to
22 yourself and then I'll have a question for you, okay?

23 (Witness perusing document.)

24 Let me know when you are finished.

25 A Okay.

MICHAEL UNCAPHER - DIRECT

2724

1 Q Are you finished reading?

2 A Yes.

3 Q First question is, do you recall having read that now
4 whether you had an understanding at the time about whether
5 these monies received from Mr. Williams were gifts or
6 loans?

7 A It was a loan.

8 Q And do you recall based on conversations with
9 Mr. McDonnell, among other things, and your ex-wife, what
10 the term of the loans was; in other words, how long the
11 loan term was going to be for?

12 A No payments due for three years.

13 Q Okay. And then finally, do you recall any -- whether
14 any provision was made for Mr. Williams to use the
15 properties from time to time?

16 A Yeah, he could use it and that would offset some
17 payments.

18 Q Do you know -- you can put that down. Do you know
19 whether Mr. Williams in fact ever used either Sunseeker or
20 East Coast Palace?

21 A Not to my knowledge.

22 MR. HARBACH: Can I have a moment, please,
23 Judge?

24 THE COURT: Sure.

25 (Counsel conferring with co-counsel.)

MICHAEL UNCAPHER - CROSS - SMALL

2725

1 BY MR. HARBACH:

2 Q Last couple of questions, Mr. Uncapher. Do you
3 recall whether there there was any loan paperwork that you
4 saw related to the \$70,000 in proceeds from Mr. Williams
5 in 2012?

6 A No.

7 Q Do you have any recollection of whether MoBo in fact
8 made any loan payments to Mr. Williams or Starwood Trust
9 while you were handling payments for MoBo?

10 A No.

11 MR. HARBACH: Thank you, Your Honor. I have no
12 further questions at this time.

13 THE COURT: Cross?

14 CROSS-EXAMINATION

15 BY MR. SMALL:

16 Q Good afternoon, Mr. Uncapher. I'm Dan Small. I
17 represent Bob McDonnell. A few questions for you. You
18 said that MoBo was an entity, an LLC; is that correct?

19 A Yes.

20 Q And it was owned jointly by Mo and Bob. That was the
21 reason for MoBo, right?

22 A Right.

23 Q The name. Could we call up just for the witness
24 RM-0502, please? Do you recognize this as the certificate
25 for MoBo LLC, MoBo Real Estate Partners, LLC?

MICHAEL UNCAPHER - CROSS - SMALL

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1 A Yes.

2 MR. SMALL: I offer that into evidence, Your
3 Honor.

4 THE COURT: It will be admitted. What's the
5 number on it, again?

6 MR. SMALL: 0502, RM-0502.

7 THE COURT: All right.

8 BY MR. SMALL:

9 Q Now, so there were just two partners, correct?

10 A Right.

11 Q Mo and Bob. And if I call your wife Maureen, Mo,
12 that's what you called her, right?

13 A Yes.

14 Q So maybe that will make it a little easier.

15 A Yes.

16 Q So, and we talked about the fact that there may be a
17 gap between expenses and income, right?

18 A Right.

19 Q In fact, that was the understanding you said right
20 from the beginning, correct?

21 A Right.

22 Q And so if there was a gap, it would be up to Mo and
23 Bob to decide whether to fill it and how to fill it,
24 correct?

25 A Right.

MICHAEL UNCAPHER - CROSS - SMALL

2727

1 Q And --

2 THE COURT: I have a question. It was the
3 understanding from the beginning that they were going to
4 be looking at 50 and \$60,000 --

5 THE WITNESS: That there was a shortfall, yes.

6 THE COURT: All right. Go ahead.

7 BY MR. SMALL:

8 Q Am I correct that the reason for that is that this
9 was viewed more as a family gathering place than as a
10 day-to-day profit/nonprofit investment, right?

11 A Yes.

12 Q Bob McDonnell, there are five siblings, right?

13 A Right.

14 Q And at one time or another, all five of them and
15 their families came to these properties to use them?

16 A Yes.

17 Q And you and Mo used them?

18 A Yes.

19 Q And other members of the family would use them?

20 A Yes.

21 Q Now, most of the costs were covered by rents; is that
22 correct?

23 A Yes.

24 Q The overwhelming majority of the costs were covered
25 by rents each year, right?

MICHAEL UNCAPHER - CROSS - SMALL

2728

1 A Yes.

2 Q And we saw the mortgage numbers. Most of the
3 mortgage payments were covered by rents, right?

4 A Yes.

5 Q But there was always going to be a gap, correct?

6 A Right.

7 Q So, and that gap, you testified, was also somewhat
8 aggravated by the season; is that correct? It is going to
9 be bigger during the winter.

10 A It wasn't even through the year.

11 Q Got you. When MoBo was started in 2005, Bob
12 McDonnell was running for and became Attorney General,
13 correct?

14 A Right.

15 Q And your wife, Mo, chose a different career path,
16 right?

17 A Right.

18 Q And she became a very successful executive in the
19 private sector, right?

20 A Yes.

21 Q Earning a large salary?

22 A Yes.

23 Q Had a large amount of money in stock accounts and
24 other savings accounts?

25 A Yes.

MICHAEL UNCAPHER - CROSS - SMALL

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1 Q And in fact, you are aware that in 2012 she had over
2 half a million dollars in income?

3 A Yes.

4 Q In the seven years that you were involved in managing
5 MoBo's books, did you ever have any concern that the
6 partners were not going to be able to come up with the
7 money to pay the bills?

8 A No.

9 Q Okay. That was a given, right?

10 A Right.

11 Q The question only was, how would they do it; is that
12 fair?

13 A Right.

14 Q And in some years, so in those seven years, there
15 were loans from three different people; is that correct?

16 A Yes.

17 Q The father, John McDonnell, and Dr. Davis, and Jonnie
18 Williams, right?

19 A Yes.

20 Q So I assume that means that in some years there were
21 no loans, right?

22 A Right.

23 Q So from about 2005 through about 2008, things went
24 pretty smoothly in the management of MoBo, correct?

25 A Yes.

MICHAEL UNCAPHER - CROSS - SMALL

2730

1 Q In that four or five-year time there wasn't a single
2 late fee, correct?

3 A Right.

4 Q In 2009, in addition to what we talked about, the
5 fact that the market crashed, right? But there were some
6 other things that changed, weren't there?

7 A Yes.

8 Q Tell the jury what those were.

9 A In 2008, Mo and I had a baby. During her pregnancy
10 she was on bedrest for six-and-a-half months. And then my
11 business, I closed my business in September of 2009. And
12 then after having our baby, she was, she had a significant
13 amount of health concerns that we were in and out of the
14 hospital, or she was in and out of the hospital right
15 after our daughter was born, and then up to and including
16 going to the Mayo Clinic for ten days.

17 Q With all of this going on, where did MoBo fit on your
18 list of priorities?

19 A At the bottom.

20 Q Okay. And is it fair to say that you started to have
21 problems just with managing the cash?

22 A Right.

23 Q And there started to be a lot of late fees.

24 A Yes.

25 Q And those late fees reflected your mismanagement of

MICHAEL UNCAPHER - CROSS - SMALL

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1 the money, didn't they?

2 A Right.

3 Q They didn't reflect problems with finances, right?

4 A Right.

5 Q Mo had plenty of money, she just needed to know when
6 to put it up, right?

7 A Right, she did.

8 Q I'm not going to go into the details, Mr. Uncapher,
9 but isn't it fair to say that there were also problems
10 with your having moved some money out of the MoBo account
11 to other accounts?

12 A Yes.

13 Q And that also made the finances of MoBo a little more
14 difficult.

15 A Right.

16 Q But that all got resolved, right?

17 A Right.

18 Q So the loan from the father, John McDonnell, that was
19 back in 2007; is that right?

20 A Right.

21 Q And then the Dr. Davis loan was in 2009, correct?

22 A Yes.

23 Q Okay. And then we talked about the Jonnie Williams
24 loans in 2012, correct?

25 A Yes.

MICHAEL UNCAPHER - CROSS - SMALL

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1 Q The Jonnie Williams loan, the first loan, I think we
2 saw, was in March of -- I'm sorry, in May of 2012; is that
3 correct?

4 A Yes.

5 Q Now, I was right the first time. It was in March of
6 2012. Right?

7 A Uh-huh.

8 Q And you are aware -- and so, again, they made a
9 decision that they would use a loan to fill that gap.

10 A Right.

11 Q But there was plenty of other money available to fill
12 that gap, right?

13 A Right.

14 Q And in fact, you are aware, aren't you, that within
15 literally days of that \$50,000 loan in March of 2012, Mo
16 got a bonus of \$70,000 from her company, right?

17 A Right.

18 Q So there was never any desperation, was there?

19 A No.

20 MR. HARBACH: Objection.

21 THE COURT: Sustained.

22 BY MR. SMALL:

23 Q You knew the bills were going to be paid one way or
24 the other, right?

25 A Yes.

MICHAEL UNCAPHER - CROSS - BURCK

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1 MR. HARBACH: Objection.

2 THE COURT: Sustained.

3 MR. SMALL: Nothing further.

4 THE COURT: Mr. Burck?

5 CROSS-EXAMINATION

6 BY MR. BURCK:

7 Q Good afternoon, Mr. Uncapher.

8 A Hi.

9 Q My name is Bill Burck, and I represent Maureen
10 McDonnell, your former sister-in-law.

11 A Right.

12 Q I just want to focus on the two phone calls that you
13 had with Jonnie Williams. One, you testified you recall
14 it was in the summer of 2011, and the other one you recall
15 was in the early part of 2012. Remember that testimony?

16 A Right.

17 Q Is it possible that -- you had to be shown a document
18 to refresh your recollection on the timing of the first
19 call. Do you remember that?

20 A Yes.

21 Q Is it possible that the call actually occurred in the
22 spring of 2011?

23 A It is possible, yes.

24 Q It is possible?

25 A Yes.

MICHAEL UNCAPHER - CROSS - BURCK

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1 Q Please call up Government Exhibit 110. This has
2 already been admitted into evidence. So I don't believe
3 you have ever seen this before, but this is a Mansion log,
4 May 2nd, 2011.

5 A Yes.

6 Q And if you will blow up the 9:24 time in the middle.
7 It says, "John Williams." I'll proffer to you that's
8 Jonnie Williams.

9 A Yes.

10 Q And he entered the Mansion at 9:24 and left at 11:25.
11 102, I will also let you know, is a term for
12 Ms. McDonnell, the First Lady.

13 A Right.

14 Q 101 being the Governor, 102 being the First Lady.
15 I'd like to show just the witness RM-0106. And it would
16 be a specific page, which is 220. Could you blow up the
17 bottom part there? Actually, I'm sorry, just blow up the
18 top first just to identify it. Sir, these are phone
19 records of Maureen McDonnell, the former First Lady. And
20 these are from Verizon Wireless. If you go to the bottom
21 of that page, highlighted, you will see a series of phone
22 calls. Your cell phone number at the time, the last four
23 digits only, were 2465?

24 A Right.

25 Q And do you recall that your then wife's phone number

MICHAEL UNCAPHER - CROSS - BURCK

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1 at the time, the last four digits, was 0673?

2 A Yes.

3 Q Do you recall that the Governor's cell phone at the
4 time was 0714?

5 A Yes.

6 MR. BURCK: We would offer RM-0106-220, 221, and
7 287 into evidence. I would offer all of the phone
8 records, Your Honor, but we don't have them all redacted
9 yet.

10 THE COURT: All right. 220, 221, and 287 will
11 be admitted.

12 BY MR. BURCK:

13 Q Sir, you will see there that there are, there is a
14 call starting at 9:57 a.m., this is from Ms. McDonnell to
15 2465 on May 2nd. Do you see that?

16 A Yes.

17 Q That's your phone number?

18 A Yes.

19 Q You will see that it is for one minute.

20 A Right.

21 Q Then you will see below that there is a phone call
22 from Ms. McDonnell to 0673, which I think you have
23 testified is your former wife's number?

24 A Yes.

25 Q That's for one minute.

MICHAEL UNCAPHER - CROSS - BURCK

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1 A Right.

2 Q You will see below that there is a call from
3 Ms. McDonnell, two minutes after that, to 0714, which you
4 testified is the Governor's cell phone, correct?

5 A Right.

6 Q Right after that, you see that there is, one minute
7 later, there is another call to 0673, which is Maureen,
8 your wife's, phone number?

9 A Yes.

10 Q Another one a minute later again to your wife, and
11 then another one a minute later to you.

12 A Yes.

13 Q So that's six phone calls to your former wife, the
14 Governor, and yourself in that roughly five-minute period.

15 A Yes.

16 Q Then you will see on the next page, turn the page to
17 221, please, the very top. There is a phone call at
18 10:44, this time from you to Ms. McDonnell. Do you see
19 that?

20 A Yes.

21 Q And that is actually for 13 minutes.

22 A Right.

23 Q So that looks like you actually had a conversation
24 with her in that period, right?

25 A Right.

MICHAEL UNCAPHER - CROSS - BURCK

2737

1 Q I showed you in the Mansion log earlier that
2 Mr. Williams was present at the Mansion on May 2nd from
3 9:24 to approximately 11:30 that day, remember that?

4 A Yes.

5 Q So does this help refresh your recollection as to
6 when you had this phone call with Maureen McDonnell that
7 she put Jonnie Williams on the call?

8 A Yes.

9 Q You think it was May 2nd, 2011?

10 A Yes.

11 Q Now, focusing on that conversation, you testified
12 that you got a call, you called or received a phone call
13 from Maureen.

14 A Right.

15 Q It looks like that you actually called her back,
16 right?

17 A Right.

18 Q And you said that Maureen gave you the phone to talk
19 to Jonnie Williams?

20 A Gave Jonnie the --

21 Q I'm sorry, excuse me, gave Jonnie Williams the phone
22 to talk to you.

23 A Right.

24 Q Because she was present with Jonnie Williams; that's
25 what you understood?

MICHAEL UNCAPHER - CROSS - BURCK

2738

1 A Right.

2 Q Can you tell us, what did Maureen McDonnell say to
3 you describing Jonnie Williams? The best you recall.

4 A Just that he was interested in buying or investing in
5 the properties.

6 Q Okay. Did she mention to you that he has been
7 looking for property in Virginia Beach?

8 A Not that I remember.

9 Q Okay. And when you talked to Jonnie Williams about
10 the properties, what did you say to him, to the best of
11 your recollection?

12 A I just told him what we owed on each property and
13 what the average expenses were for the mortgages.

14 Q Did you tell him what the annual deficit was?

15 A Yes.

16 Q What was that?

17 A Between 50 and \$60,000.

18 Q The words 50, \$60,000 came out of your mouth?

19 A Yes.

20 Q Then Mr. Williams handed the phone back to Maureen?

21 A Yes.

22 Q And when you said 50 or \$60,000 to Mr. Williams, was
23 Maureen McDonnell on the phone?

24 A Was she on the phone?

25 Q Was she on the phone?

MICHAEL UNCAPHER - CROSS - BURCK

2739

1 A I was talking to Jonnie.

2 Q He didn't have it on speaker or anything like that?

3 A Not that I know of, no.

4 Q Okay. Now turning to page RM-0106-287. Actually,
5 before we do that, can you call up Government Exhibit 290?
6 It is already admitted into evidence. If you could blow
7 up the 11:05 period. You will see that there is a
8 reference there, this is again a Mansion log, and this is
9 dated January 19th, 2012. You will see there is a
10 reference to Williams, Bobby is crossed out, it says, "To
11 see 102." I'll proffer to you that's Jonnie Williams to
12 see the First Lady. He comes in at 11 o'clock and leaves
13 at 1300, 1 o'clock.

14 A Yes.

15 Q If you could show Government Exhibit 295. This is
16 already admitted into evidence. And the bottom e-mail.
17 This is from you, you testified a bit about this e-mail,
18 from you on January 25th, 2012, so about six days later,
19 to Bob and Maureen McDonnell. It is actually to Bob
20 McDonnell, I think you testified, "Dear Bob." The last
21 sentence you say on that page, "For MoBo, I talked with
22 your Mo last week and she had me talk to the guy who is
23 helping us." Right?

24 A Right.

25 Q And "your Mo," you testified, was Maureen McDonnell,

MICHAEL UNCAPHER - CROSS - BURCK

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1 the First Lady, right?

2 A Right.

3 Q You were telling him that you had spoken to Maureen
4 McDonnell the prior week, right?

5 A Yes.

6 Q Going back to, please put up the phone records for
7 RM-0106-0287. Blow up the middle there for me, please.
8 You will see, these are phone records of Maureen
9 McDonnell. Again, there are two calls, one to you and one
10 from you. One is at 12:01 p.m. on January 19th. This is
11 to you from Maureen McDonnell. And there is one on
12 January 19th at 12:11, which is from you back to Maureen
13 McDonnell, 12 minutes. Does this help refresh your
14 recollection as to when you had the call with Jonnie
15 Williams the second time?

16 A Yes.

17 Q So January 19th, 2012, fair to say?

18 A Yes.

19 Q And during that call, you testified that it was more
20 or less sort of a replay of the first phone call; is that
21 right?

22 A Right.

23 Q And you discussed in that call the financial
24 situation of MoBo?

25 A Yes.

MICHAEL UNCAPHER - REDIRECT

2741

1 Q And you told him again about a 50 to \$60,000 deficit?

2 A Yes.

3 Q And those words again came out of your mouth, right?

4 A Yes.

5 MR. BURCK: Your Honor, no further questions for
6 us.

7 THE COURT: All right. Redirect?

8 MR. HARBACH: Yes, Your Honor, thank you.

9 REDIRECT EXAMINATION

10 BY MR. HARBACH:

11 Q Mr. Uncapher, during either of these phone calls
12 where you spoke with Jonnie Williams, did he say to you,
13 "Sounds great, Michael, I'm going to loan MoBo \$70,000"?
14 Did he tell you that?

15 A No.

16 Q Do you recall how you learned that Mr. Williams was
17 going to be helping you out?

18 A I don't recall specifically. I just heard it from
19 either Bob or Maureen, my wife.

20 Q You testified on cross-examination to Mr. Small with
21 respect to the loan from Mr. McDonnell's father. He asked
22 you, "That was in 2007, correct?" And you said, "Right."
23 My question for you is, do you actually remember that that
24 loan was in 2007?

25 A It was early on. I don't exactly remember what the

MICHAEL UNCAPHER - REDIRECT

2742

1 date was.

2 Q Okay. How many times did you meet with Mr. Small
3 before you testified here today, sir?

4 A Three.

5 Q And after the one interview that you have testified
6 about you had with the FBI that was approximately a year
7 ago, how many times have you met with government counsel?

8 A None.

9 Q You testified on cross-examination about the
10 anticipated shortfall for MoBo year to year, and I think
11 His Honor asked you a question about the 50, \$60,000
12 amount. Do you recall that exchange?

13 A Yes.

14 MR. HARBACH: Could I show the witness for
15 identification, please, Page 8 of Government's 513?

16 BY MR. HARBACH:

17 Q Do you recognize this document, sir?

18 A I don't know who did it.

19 Q Does this look like the type of document that
20 Ms. Chamberlain prepared based on the books of the
21 business?

22 A Again, I never saw this. She sent those directly to
23 Dan Cook.

24 Q Okay. Then we will leave it up just for the witness,
25 please, and look at Page 9. I'm sorry, take that down for

MICHAEL UNCAPHER - REDIRECT

2743

1 a second, please. Do you recall exactly how much the
2 shortfall was for each of the years of 2008 through 2012?

3 A I don't know exactly. It was an estimate of 50, that
4 was what we banked on, an estimated 50 to 60.

5 Q Now, let's take a look now at Page 9 of Government's
6 513 just for the witness's review. Blow that up for him.
7 Are you able to see that okay, sir?

8 A Yes.

9 Q Does that refresh your recollection about whether in
10 fact for the years from 2008 to 2012, at least, and in
11 three of those five years, the shortfall was substantially
12 in excess of \$60,000?

13 A Again, I never saw those things, I was always going
14 off the estimate. I see what's written there.

15 Q All I can ask you is what your recollection is. Do
16 you recall --

17 A No --

18 Q Let me ask the question first, please. Do you recall
19 in 2009, 2010 --

20 MR. SMALL: Your Honor, may we approach? He is
21 talking about depreciation and paper losses. I object to
22 the use of a document this witness knows nothing about.

23 THE COURT: That objection will be sustained.

24 MR. HARBACH: You can take the document down,
25 please.

MICHAEL UNCAPHER - REDIRECT

2744

1 BY MR. HARBACH:

2 Q Did you know at the time, do you have any
3 recollection of knowing in 2009, 2010, 2011, what in fact
4 the cash shortfall was year to year? Did you know?

5 A No. For me it was always an estimate of 50 to
6 \$60,000.

7 Q And what was that based on?

8 A Just rough guesses of handing over the numbers to
9 Brenda.

10 Q And then my last question is, did I understand your
11 testimony correctly on cross-examination to be that when
12 the business was formed, it was anticipated that there
13 would be a cash shortfall year to year of 50 to \$60,000;
14 is that your testimony?

15 A That was the rough estimate, yes.

16 MR. HARBACH: Thank you, Your Honor.

17 THE COURT: I have a question.

18 BY THE COURT:

19 Q Were the loans, and I guess we have identified three,
20 were the loans to fill the shortfall?

21 A Yes.

22 Q So at one time there was a \$100,000 shortfall?

23 A Apparently. Like I said, I've never seen that
24 document.

25 Q All right. Thank you.

MICHAEL UNCAPHER - REDIRECT

2745

1 THE COURT: You may stand down, sir.

2 (Witness stood aside.)

3 All right, we will go ahead and take a break. 15
4 minutes.

5 (Recess taken from 3:41 p.m. to 3:55 p.m.)

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1 MR. BROWNLEE: Your Honor --

2 THE COURT: Yes.

3 MR. BROWNLEE: -- before we bring the jury in,
4 can we -- Ms. Krueger is next?

5 MR. DRY: Yes.

6 MR. BROWNLEE: Yeah. Can we just -- can we
7 raise one issue with this next witness before she comes
8 in, Your Honor?

9 THE COURT: Okay.

10 MR. BROWNLEE: Do you want us to --

11 THE COURT: Come on up.

12 (At Bench.)

13 MR. BROWNLEE: Judge, I think that the
14 government is going to try to introduce an e-mail, going
15 to try to introduce that.

16 MR. FAULCONER: Let me double-check. It may be
17 an e-mail depending on her recollection.

18 Which one is that?

19 THE COURT: What's -- who's the witness?

20 MR. FAULCONER: The witness' name is Sharon
21 Krueger, Your Honor. K-R-U-E-G-E-R.

22 What's the date of that one, John?

23 MR. BROWNLEE: It's 11/22/11.

24 MR. FAULCONER: Can I see that?

25 MR. BROWNLEE: Sure.

1 MR. FAULCONER: Is this the one that has a photo
2 on it, the other version?

3 MR. BROWNLEE: No.

4 MR. FAULCONER: I don't think we currently
5 intend to offer it, but it's possible.

6 MR. BROWNLEE: Just to raise this, Your Honor.
7 Basically, this is an e-mail that summarizes a call she
8 had with John Lazo. Mr. Lazo has already testified. So
9 when he was on the stand, this particular subject
10 wasn't -- they didn't go into it so we didn't cross on it.

11 And now what I think they are going to try to do is
12 ask her about this conversation, about what he told her.
13 And we just can't confront him now. He's come and gone.
14 He was here. And so we just wanted to raise this. If
15 they are not going to do it, that's fine, but I just
16 wanted to do it before the witness got in the seat.

17 THE COURT: I don't see any particular problem
18 with that. If -- if you have to use it, you'll have an
19 opportunity to deal with whatever he does here. That's an
20 objection that will be overruled at this time.

21 MR. FAULCONER: Thank you, Your Honor.

22 (In Open Court.)

23 (The jury entered the courtroom.)

24 THE COURT: All right. Government, call your
25 next witness.

1 MR. FAULCONER: Yes, Your Honor. The
2 United States calls Sharon Krueger.

3 THE COURT: All right.

4 **SHARON KRUEGER,**
5 called as a witness by and on behalf of the government,
6 having been first duly sworn by the Clerk, was examined
7 and testified as follows:

8 MR. FAULCONER: May I inquire, Your Honor?

9 THE COURT: Go ahead.

10 **DIRECT EXAMINATION**

11 BY MR. FAULCONER:

12 Q Good afternoon.

13 A Good afternoon.

14 Q Could you please state your name, and spell your last
15 for the court reporter.

16 A It's Sharon Ann Krueger. K-R-U-E-G-E-R.

17 Q And, Ms. Krueger, what city do you currently live in?

18 A I live in Earlysville, Virginia.

19 Q And where do you currently work?

20 A I work for the University of Virginia.

21 Q And how long have you worked at UVA?

22 A I have worked at UVA since July of 2003.

23 Q And what is your current title at UVA?

24 A My current title is I'm the Program Director for
25 Innovation Grants & Relationships.

1 Q Now, prior to taking on that role and focusing in on
2 the time frame of August to December of 2011, what was
3 your role during that time frame?

4 A I oversaw strategic partnerships. Basically, I'm
5 still doing the same that I did then, but I have added
6 responsibilities that just started in May.

7 Q And which office within UVA are you working in?

8 A I work for the Vice President for Research, and I
9 have a cross appointment in an initiative out of the VPR
10 Office called UVA Innovation.

11 Q Now, the VPR Office is that the Vice President for
12 Research?

13 A Correct.

14 Q And could you tell us, just briefly, what exactly is
15 UVA Innovation?

16 A UVA Innovation is primarily the technology transfer
17 arm of the university. And part of that involves -- in
18 addition to the technology transfer arm, it involves
19 oversight on our internal proof-of-concept Translational
20 Research funds. Industry partnerships that advance
21 research.

22 Q And so during that time frame of about August to
23 December of 2011, what were your day-to-day
24 responsibilities, generally speaking?

25 A I serve as a point person for research industry --

1 serve as a point person for industry interactions for R&D,
2 for research and development. I also partner with people
3 across the university to plan and manage and run
4 entrepreneurial and innovation events, be it at the
5 university level, the community level, and all the way up
6 to the national level.

7 Q Now, Ms. Krueger, UVA, is that a state school or a
8 private school?

9 A We are a state school.

10 Q As a UVA employee, do you receive certain e-mails
11 addressed to all state employees?

12 A Yes, I do.

13 MR. FAULCONER: I'd like to show the witness
14 what's already been admitted as Exhibit 525. And if we
15 could zoom in just on sort of the top half of that.

16 BY MR. FAULCONER:

17 Q Ms. Krueger, does this look like one of the types of
18 e-mails that you would get on the state employees's
19 ListServ?

20 A Yes, it does.

21 Q Is this dated during a time period when you were
22 employed by UVA?

23 A Yes, it is.

24 Q And would some of the e-mails that you received have
25 this seal and Office of Governor Bob McDonnell at the top

1 of them?

2 A Yes. They all do.

3 Q All of them at least that come from the Governor's
4 Office?

5 A That come from the Governor's Office. Yes.

6 Q Now --

7 MR. FAULCONER: We can go ahead and take that
8 down.

9 BY MR. FAULCONER:

10 Q Now, as someone working within UVA Innovation as part
11 of the Vice President for Research, do you interact with
12 state government officials who aren't UVA officials?

13 A Yes, I do.

14 Q And, generally speaking, would you prefer to have
15 good relationships or bad relationships with those people?

16 A Good relationships.

17 Q Now, while working at UVA Innovation, have you also
18 helped plan events related to UVA research initiatives?

19 A Yes, I have.

20 Q And have those included events in which you have
21 invited public officials to attend them?

22 A Yes.

23 Q Has that included the Governor?

24 A Yes.

25 Q Did that include when Mr. McDonnell, when he was

1 Governor?

2 A Yes.

3 Q And have those included events in which Mr. McDonnell
4 declined to attend, despite having been invited?

5 A Yes.

6 Q I'd like to show you what's been marked for
7 identification as Exhibit 517. Now, Ms. Krueger, is this
8 a fairly lengthy e-mail exchange between you and other
9 individuals at UVA?

10 A Yes.

11 Q And does this pertain to an invitation for
12 Mr. McDonnell to attend an event in 2013?

13 A Yes, it was.

14 MR. BROWNLEE: Your Honor, I'm going to object.
15 This is an invitation that was declined in May of 2013. I
16 don't know what the relevance to this case would be.

17 THE COURT: Overruled.

18 MR. FAULCONER: Your Honor, we'd offer Exhibit
19 517 into evidence.

20 THE COURT: It will be admitted.

21 BY MR. FAULCONER:

22 Q Now, without going through the whole e-mail exchange,
23 can you just tell us, if you recall, what the event was
24 that you invited Mr. McDonnell to attend?

25 A Charlottesville and UVA, as the host school, was

1 selected by the Association of Public and Land-Grant
2 Universities to host a summer meeting for one of their
3 Councils and Commissions on graduate studies, and the
4 Commission on Innovation and Economic Prosperity.

5 Last year -- or the prior year, when the conference
6 was at the University of Nebraska, the Governor spoke. So
7 we were just following the protocol that Nebraska
8 followed, did the year before.

9 Q And when you say the Governor spoke at the prior
10 year, was that the Governor of Nebraska?

11 A The Governor of Nebraska.

12 Q And why did you want Mr. McDonnell to attend the
13 event?

14 A More so, we were just following the protocol that if
15 Nebraska had their Governor when the event was in
16 Nebraska, we wanted our Governor at the event when it was
17 held in Virginia.

18 Q To your recollection, did Mr. McDonnell actually
19 attend this event?

20 A No, he did not.

21 Q Did he send someone in his place? Do you recall?

22 A Yes, he did.

23 Q And who was that?

24 A That was Secretary Jim Cheng.

25 Q Do you know which secretary he is?

1 A Oh, of Trade and Commerce.

2 MR. FAULCONER: All right. We can take that
3 down.

4 BY MR. FAULCONER:

5 Q Now, before 2011, had you heard of the company either
6 Star Scientific or Rock Creek Pharmaceuticals?

7 A No, I had not.

8 Q How about Anatabloc or anatabine?

9 A No, I had not.

10 Q Do you recall learning, at some point in 2011, about
11 an event at the Governor's Mansion involving Star
12 Scientific and its Anatabloc product?

13 A Yes, I did. From one of my colleagues.

14 Q Was that individual Dr. John Lazo?

15 A Yes, it was.

16 Q Did you also talk about it with some other people?

17 A Really, pretty much it was John -- the best I can
18 recall, it was just Dr. Lazo.

19 Q Now, do you recall actually having both some e-mail
20 correspondence and a couple of phone conversations with
21 various people in 2011 about Star Scientific and Rock
22 Creek Pharmaceuticals?

23 A Yes, I do.

24 Q And in the course of that process, did you learn
25 about a number of UVA doctors who had received planning

1 grants from Star Scientific for the purpose of creating
2 study proposals?

3 A Yes, I did.

4 Q And I'd like to show you what's been marked for
5 identification as Exhibit 268. Ms. Krueger, do you
6 recognize this as a chart of essentially doctors and --
7 that received grants?

8 A Yes.

9 Q And is this a document that you actually had in your
10 files as you were looking into this?

11 A Yes. This is created by our Office of Sponsored
12 Programs. It's a standard research document.

13 MR. FAULCONER: Your Honor, we'd offer Exhibit
14 268 into evidence.

15 THE COURT: It will be admitted.

16 MR. FAULCONER: All right. Now, if we could
17 zoom in on the first five columns there. I guess it
18 doesn't get that. If we could zoom in on sort of the top
19 half to start. Thank you, Mr. Starnes.

20 BY MR. FAULCONER:

21 Q Now, do you see the names there, Ronald Turner, Brian
22 Annex, and Eugene Barrett?

23 A Yes, I do.

24 Q And do you know who those individuals are?

25 A Yes, I do.

1 Q Who are they?

2 A Well, they are all clinicians in the School of
3 Medicine, clinician researchers in the School of Medicine.

4 Q And do you know why they ended up on this chart?

5 A They received a pilot grant from Star Scientific.

6 MR. FAULCONER: And if we could scroll down a
7 little bit.

8 BY MR. FAULCONER:

9 Q Do you see there also the name Jonathan Truwit?

10 A Yes, I do.

11 Q Is that another UVA researcher, who, to your
12 understanding, had a grant from Star Scientific?

13 A Based on this document, yes.

14 Q Now, when you were looking into this, what was your
15 understanding of what the purpose of the -- I think you
16 said pilot grant was?

17 A Yes. My understanding was that it was just to start
18 to do -- to test the potential compound in different
19 disease states.

20 Q And was it your understanding of whether there would
21 be any follow-on funding from any alternative source later
22 on?

23 A No, not to my -- not to my knowledge.

24 Q Well, do you recall what the size of the initial
25 planning grants were that came in?

1 A Yeah. They were \$25,000 each.

2 Q And was that all the money to fund all the research
3 or would there need to be an application made at some
4 point for additional funding?

5 A Via e-mail conversation, I know a request for
6 proposals went out for the -- for the researchers to apply
7 to get the money.

8 Q Okay. And was that to apply for a larger amount of
9 funding to actually do the studies themselves?

10 A No. That was to apply to get the \$25,000 each.

11 Q All right. Well, let me show you what's been marked
12 for identification as Exhibit 259. Do you recognize this
13 as an e-mail from an individual named Jeffrey Blank to
14 you?

15 A Yes.

16 Q Is this dated November 8th, 2011?

17 A Yes.

18 Q And is this towards the beginning of when you started
19 to look into these grants?

20 A Yes.

21 MR. FAULCONER: Your Honor, we'd offer Exhibit
22 259 into evidence.

23 THE COURT: It will be admitted.

24 BY MR. FAULCONER:

25 Q Now, can you start by telling us who Jeffrey Blank

1 is?

2 A Jeffrey Blank also works in the Vice President for
3 Research Office. He primarily is -- he's not on the
4 research end like I am. He primarily takes care of a lot
5 of the HR issues. He works with gathering a lot of the
6 information for reports that are due to the President of
7 our university.

8 Q Now, do you see there where -- do you see what the
9 subject line of this e-mail says?

10 A Yes.

11 Q And what is the subject line?

12 A "Star Scientific and State Tobacco Commission
13 Collaboration" with a question mark.

14 Q And in the body of the e-mail that's forwarded to
15 you, do you see a reference to planning grants of \$25,000
16 each?

17 A Yes, I do.

18 Q And those doctors' names, Gene Barrett, Ron Turner,
19 and Brian Annex, are those some of the doctors we saw on
20 the prior page?

21 A Yes, they are.

22 Q Now, can you tell us -- where the sentence says, "At
23 UVA they went to," what does it say after "to support" in
24 terms of where the larger amount of money was supposed to
25 come from?

1 A "To support planning work in advance of what was to
2 be a larger award expected from the" -- "from the Virginia
3 Tobacco Commission that Rock Creek indicated to the
4 schools they would secure."

5 Q All right.

6 MR. FAULCONER: Now, if we could scroll down a
7 little bit.

8 BY MR. FAULCONER:

9 Q Could you read for us just the first two sentences of
10 that second paragraph?

11 A "Peggy mentioned these planning awards were announced
12 by the Governor of Virginia at a public event. In
13 addition, the Governor's wife has publicly disclosed that
14 she is a happy user of the company's products and perhaps
15 the Governor as well."

16 Q Do you know who Peggy is that's referred to in
17 that --

18 A Yes. Peggy Shupnik is the Dean of Research in the
19 School of Medicine and also an endocrinologist researcher.

20 Q All right.

21 MR. FAULCONER: We can take that down.

22 BY MR. FAULCONER:

23 Q Now, after learning this information and getting
24 these e-mails forwarded to you, did you actually do some
25 due diligence or looking into Rock Creek Pharmaceuticals

1 and Star Scientific?

2 A Yes.

3 Q And did you keep individuals who worked with you in
4 the VPR's Office apprised of what you found?

5 A Yes, I did.

6 Q And was one of those supervisors or individuals
7 someone named Mark Crowell?

8 A Yes.

9 Q And is his name actually Wriston Mark Crowell?

10 A That -- legally, yes. But he professionally goes by
11 Mark Crowell.

12 Q And was he the predecessor to the position you're now
13 in?

14 A No. He was actually my boss.

15 Q Got it.

16 A And he has since retired from the university.

17 Q Got it. Now, I'd like to show you what's been marked
18 for identification as Exhibit 261. Is that an e-mail
19 exchange between you and Mr. Crowell the following day, on
20 November 9th, 2011?

21 A Yes.

22 Q And is this discussing what you were looking into?

23 A Yes.

24 MR. FAULCONER: Your Honor, we'd offer Exhibit
25 261 into evidence.

1 THE COURT: It will be admitted.

2 BY MR. FAULCONER:

3 Q Now, Ms. Krueger, could you read the bottom e-mail,
4 the one that you sent to Mr. Crowell on November 8th,
5 2011, at 8:17 p.m. Just that first paragraph there.

6 A "So got more information, interesting. I'm going to
7 do a bit of diligence as well and let you know what I
8 found out. Personally, I think the Governor's wife or
9 assistant may look like the Governor is influencing UVA to
10 a potential action. Just odd in my opinion."

11 Q And what does Mr. Crowell write in response to you?

12 A "Great reports. Kind of agree that the Rock Creek
13 thing - this makes me uncomfortable."

14 Q All right.

15 MR. FAULCONER: We can take that down.

16 BY MR. FAULCONER:

17 Q Now, I'd like to show you what's been marked for
18 identification as Exhibit 262. Is this another e-mail
19 from you to Mr. Crowell dated November 9th, 2011?

20 A Yes, it is.

21 Q And is this another e-mail where you're forwarding
22 some of the information that you've obtained?

23 A Yes, it is.

24 MR. FAULCONER: Your Honor, we'd offer Exhibit
25 262 into evidence.

1 THE COURT: It will be admitted.

2 MR. FAULCONER: Now, if we could zoom out and
3 then go to the second page of this document.

4 BY MR. FAULCONER:

5 Q Can you tell us what that photo is that is embedded
6 within this e-mail?

7 A This is a photo of Governor McDonnell with a
8 microphone, speaking at an event with a company logo
9 behind him.

10 Q And do you recall where you obtained this photograph
11 from before you put it in the e-mail?

12 A I captured it from a Facebook page.

13 Q And do you know if that was a Facebook page
14 affiliated with Star Scientific or Rock Creek?

15 A You know, honestly, I don't remember, because it was
16 taken down almost immediately. I honestly don't remember.

17 Q All right.

18 MR. FAULCONER: Well, if we could go to the
19 first page of the e-mail.

20 BY MR. FAULCONER:

21 Q Could you read the last bullet point in that e-mail,
22 just at the very bottom under --

23 MR. FAULCONER: Yeah. Right there.

24 BY MR. FAULCONER:

25 Q Just that last e-mail where it says, "Virginia State

1 Government."

2 A "Set up visit to UVA by Curtis Wright from Rock
3 Creek. UVA: You, me, Tom" -- that's referring to the
4 Vice President for Research -- "Peggy, Ron and maybe Phil.
5 Rock Creek: Curtis Wright. Virginia State Government:
6 Yes/no -- this is the awkward part -- as Governor
7 McDonnell has publicly announced his support for the
8 parent company Star Scientific."

9 Q Now, that statement there about Mr. McDonnell, what
10 was your basis for making that statement?

11 A The photo and just the press release.

12 Q Now, I'd like to ask you about as part of your due
13 diligence, did you also have some phone conversations with
14 Dr. Lazo? I think you referenced him earlier.

15 A Yes, I did.

16 Q And what was your understanding of his role within
17 this whole process as it unfolded?

18 A So he attended a luncheon at the Governor's Mansion,
19 and we talked about what that event was like.

20 Q During at least one of -- did you have just one
21 conversation with him or do you think you had several?

22 A According to his testimony, it looked like he called
23 me when he was driving back. But I think he called my
24 boss because I was --

25 Q Ms. Krueger, just focusing on your recollection and

1 not commenting on anything else. Do you recall having any
2 conversations with Dr. Lazo?

3 A Yes, I do.

4 Q And do you recall one of those being in November of
5 2011?

6 A Yes, I do.

7 Q All right. I'd like to show you what's been marked
8 for identification as Exhibit 264. In looking at this
9 page, and then flipping briefly to the second page, are
10 these handwritten notes that you took during your
11 conversation with Dr. Lazo, at least whatever one occurred
12 in November 2011?

13 A Yes, they are.

14 MR. FAULCONER: Your Honor, we'd offer Exhibit
15 264 into evidence.

16 MR. BROWNLEE: Just note our objection, Your
17 Honor.

18 MR. KOFFMANN: Same objection.

19 THE COURT: They will be admitted.

20 BY MR. FAULCONER:

21 Q Now, what are the -- after you write down, "Call with
22 John Re: Meeting at Gov - lunch," do you know what you're
23 referring to when you say, "Gov" there, before the word
24 "lunch"?

25 A Governor.

1 Q And what do you write underneath that on sort of the
2 first line where there are two lines on either side?

3 A "Governor Mansion for lunch."

4 Q Do you recall that coming up in your conversation
5 with Dr. Lazo?

6 A Yes, I do.

7 MR. FAULCONER: Now, if we could go to the
8 second page, and the bottom right-hand portion.

9 BY MR. FAULCONER:

10 Q Do you see there --

11 MR. FAULCONER: Yep. There we go.

12 BY MR. FAULCONER:

13 Q Do you see there what you write on the first two
14 lines that are being shown here?

15 A Yes.

16 Q What do you write?

17 A "Governor wants to get something good out of tobacco
18 - grow - harvest - medical."

19 Q And do you recall that coming up in your conversation
20 with Dr. Lazo?

21 A Yes.

22 Q Now, going over to the left of this document, do you
23 see where you say -- there's something. Am I reading this
24 correctly? It says, "It's transparent and not put us in
25 comprised position." Do you see that?

1 A Yes.

2 Q What are you talking about there?

3 A We were talking about if we would put in a Tobacco
4 Commission grant, to make sure that everything is
5 completely transparent and not to put UVA in a compromised
6 position with doing research -- how can I describe this?
7 We didn't want to be put in a position that we were being
8 told to do or directed to do research.

9 Q By whom?

10 A By the company.

11 Q Just the company or did it also include politics?

12 A To the best that I can remember, probably both.

13 Q All right.

14 MR. FAULCONER: We can go ahead and take that
15 down.

16 BY MR. FAULCONER:

17 Q Now, at some point after your conversation with
18 Dr. Lazo, did you participate in a conference call with
19 some individuals affiliated with Rock Creek and Star?

20 A Yes, I did.

21 Q And do you recall, was that later on, towards the end
22 of November 2011?

23 A Yes, it was.

24 Q Do you recall who was on that call?

25 A It was myself from -- from UVA was myself, Mark

1 Crowell, and Phil Parrish, another colleague and the Vice
2 President for Research Office, and he's our Tobacco
3 Commission liaison.

4 Q And did you actually take handwritten notes during
5 this call as well?

6 A Yes, I did.

7 MR. FAULCONER: Your Honor, we'd offer -- sorry.
8 Show the witness for identification what's been marked as
9 269.

10 Now, if we can flip to the second page of this
11 document, and then to the third page.

12 BY MR. FAULCONER:

13 Q Are these handwritten notes that you took on an
14 e-mail and then the back of the e-mail for this call?

15 A Yes, they are.

16 MR. FAULCONER: Your Honor, we'd offer into
17 evidence Exhibit 269.

18 THE COURT: It will be admitted.

19 MR. FAULCONER: Now, if we could go to the
20 second page of this document.

21 BY MR. FAULCONER:

22 Q Do you see about two-thirds of the way down where you
23 say, "Consider grant process by gov"? Do you know what
24 "gov" is referring to there?

25 A I have -- I have read this over and over again, and

1 based on my other abbreviations from Governor, that's the
2 only thing I can think of that I wrote down was that "gov"
3 meant Governor.

4 Q All right.

5 MR. FAULCONER: Well, zooming back out and going
6 to the second page. Sorry. I guess I meant third.

7 BY MR. FAULCONER:

8 Q Looking on the portion, sort of the upper right-hand
9 corner that's between those lines, can you read for us
10 what you wrote there?

11 A "Let McDonnell know about Tobacco Commission
12 proposal. Look favorable on Commonwealth.
13 Proof-of-concept funds."

14 Q Can you explain -- can you sort of decode that for
15 us? What are you --

16 A So that was just a little note to myself that if we
17 would decide to go ahead with a proposal, that their
18 current -- at that time, there was an initiative worked on
19 by many different universities to create a
20 proof-of-concept research fund. And so just doing some
21 internal thinking, you know, I was trying to maybe connect
22 the two.

23 Q And when you say, "Let McDonnell know about Tobacco
24 Commission proposal," what are you contemplating doing
25 there?

1 A That would be probably -- well, it wouldn't be me
2 letting him know. It would be probably the Vice President
3 for Research.

4 Q And when you say, "Favorable on Commonwealth POC
5 funds," is that referring to Star or an entirely
6 separate --

7 A Oh, this is entirely separate.

8 Q Now --

9 MR. BROWNLEE: We can go ahead and take that
10 down.

11 BY MR. FAULCONER:

12 Q Now, as you sort of did your due diligence and you
13 were participating in these calls with Dr. Lazo and Star
14 and Rock Creek, did you also brief one of the individuals
15 I think we've referenced named Tom Skalak?

16 A Only one.

17 Q And does Mr. Skalak, to your knowledge, interact with
18 government officials in his job?

19 A Yes, he does.

20 Q Now, before you briefed Mr. Skalak, did you put
21 together a list of pros and cons in your -- as part of
22 your due diligence?

23 A So that was a document I created just for myself.

24 When you -- when -- personally, when I'm wrestling with
25 making some decisions, it's easier if I write down pros

1 and cons. So it was a document I created for myself, to
2 be seen by no one except myself. And yes, I did.

3 MR. FAULCONER: I'd like to show the witness
4 what's been marked for identification as Exhibit 267.

5 BY MR. FAULCONER:

6 Q And is that the pros/cons list that you created?

7 A Yes, it is.

8 MR. FAULCONER: Your Honor, we'd offer Exhibit
9 267 into evidence.

10 THE COURT: It will be admitted.

11 BY MR. FAULCONER:

12 Q All right. Now, we won't be long on this, but could
13 you just read for us the first thing that's listed in the
14 "Pro" column there?

15 A "Perception to Governor that UVA would like to work
16 with local companies to support future economic
17 development."

18 MR. FAULCONER: And if we could scroll over to
19 the right.

20 BY MR. FAULCONER:

21 Q What is the first thing written in the "Cons" column?

22 A "Political pressure from Governor and impact on
23 future UVA requests from the Governor."

24 Q All right.

25 MR. FAULCONER: We can go ahead and take that

1 down.

2 BY MR. FAULCONER:

3 Q Now, we've talked a lot about the process that
4 unfolded. In the end, did the UVA researchers end up
5 making any applications to the Tobacco Commission?

6 A No, they did not.

7 Q At the time of your various deliberations and due
8 diligence and these conversations, did you have any
9 knowledge of any payments or things of value given from
10 Mr. Williams to the McDonnells?

11 MR. BROWNLEE: Objection, Your Honor.

12 THE COURT: Overruled.

13 A No, I did not.

14 MR. FAULCONER: One moment, Your Honor.

15 (Counsel conferring with co-counsel.)

16 MR. FAULCONER: No further questions, Your
17 Honor.

18 THE COURT: All right. Cross?

19 **CROSS-EXAMINATION**

20 BY MR. BROWNLEE:

21 Q Good afternoon, Ms. Krueger. My name is John
22 Brownlee, and I represent Bob McDonnell. I've got a few
23 questions for you here today. Thank you.

24 MR. BROWNLEE: If we can begin with 267,
25 Government's Exhibit 267.

1 BY MR. BROWNLEE:

2 Q This is this pros and cons that you've testified you
3 prepared. Now, government counsel asked you, on the cons,
4 it says, "Political pressure from Governor and impact on
5 future UVA requests from Governor."

6 You never spoke with Bob McDonnell about Star or Rock
7 Creek; isn't that correct?

8 A That is correct.

9 Q Okay. So whatever you're referring to here, it
10 didn't come from this man, right?

11 A That is correct.

12 Q Okay.

13 MR. BROWNLEE: All right. You can take that
14 down.

15 BY MR. BROWNLEE:

16 Q Now, I want to start back one step as we begin here.

17 MR. BROWNLEE: If we could pull up -- well,
18 let's take a look at Government's Exhibit Number 261.

19 BY MR. BROWNLEE:

20 Q All right. And I believe the government showed this
21 e-mail to you. Do you remember that?

22 A Yes.

23 Q Okay. So this is an e-mail, we'll start at the
24 bottom, from you to Mr. Crowell on November 8th. And this
25 is at 8:17 p.m. Okay?

1 A Yes.

2 Q And you're saying, "So got more information.

3 Interesting. I'm going to be" -- "I'm going to do a bit

4 of diligence as well. Let you know what I find out." And

5 then you talk about the governor's wife and all this.

6 Now -- and then you forwarded it up and it says,

7 "Great reports. Kind of agree on the Rock Creek thing."

8 And this is what the government showed you; isn't

9 that right?

10 A This is correct.

11 Q Okay. And they just showed it to you just a few

12 moments ago?

13 A This is correct.

14 Q Okay.

15 MR. BROWNLEE: Let's pull up Government's

16 Exhibit 260.

17 MR. FAULCONER: Your Honor, I don't think this

18 one has been entered.

19 MR. BROWNLEE: If we could just show the

20 witness. If we'd go down below.

21 BY MR. BROWNLEE:

22 Q Okay. Now, this is an e-mail that has got your name

23 on it that was sent to you. You're in the cc block, from

24 Mr. Crowell; isn't that correct?

25 A Yes.

1 Q Okay. And it's on November 8th?

2 A Yes.

3 Q Same date as the other one, except this one is at
4 5:04 a.m., correct?

5 A Correct.

6 MR. BROWNLEE: Your Honor, we move Government's
7 Exhibit 261 -- 261 -- 260 into evidence.

8 THE COURT: It will be admitted.

9 MR. BROWNLEE: Thank you.

10 Okay. Now, if we scroll up.

11 BY MR. BROWNLEE:

12 Q The e-mail that sets up the one that was shown to you
13 by government counsel is from Mr. Wright. And who is
14 Mr. Wright?

15 A He is from Rock Creek Pharmaceuticals.

16 Q So he's a Star guy?

17 A Yes.

18 Q Okay. And he sends this e-mail, and you're on it.

19 And it says, "We do not know yet. It is one of the

20 following three." And then it has three people,

21 "Assistant to the Governor, Attorney General, wife of

22 Governor. I will try to find out more."

23 Now, this is who Star is telling you might show up at
24 some meeting?

25 A That is correct.

1 Q Okay. And Bob McDonnell is not on this e-mail,
2 right?

3 A That is --

4 Q No one from the government is on this e-mail?

5 A That is correct.

6 Q Okay.

7 MR. BROWNLEE: And then it scrolls up.

8 BY MR. BROWNLEE:

9 Q Okay. And then Wriston responds, and you're cc'd.
10 And then it says, "Mark, I will call Peggy and see what
11 are the compelling time-related issues she sees at this
12 point."

13 Now, Peggy is Peggy Shupnik; is that correct?

14 A That is correct.

15 Q And Ms. Shupnik, if you know, attended this Star
16 event at Gibson Island in July; isn't that right?

17 A That is right.

18 Q Okay. And so when she went to Gibson Island, she got
19 the full pitch from Star about Anatabloc; isn't that
20 correct?

21 A That is correct.

22 Q Okay. And it was at that time, after that, that
23 Ms. Shupnik decided that they would accept this \$25,000
24 planning grant from Star; isn't that right?

25 MR. FAULCONER: Objection, Your Honor, as to

1 what Ms. Shupnik decided.

2 THE COURT: Sustained.

3 BY MR. BROWNLEE:

4 Q Well, do you know when UVA, Ms. Shupnik, decided to
5 accept this money from Star?

6 A No, I do not.

7 Q Okay. All right. So if we take this down and then
8 bring up 261, Government's Exhibit 261, and we blow this
9 up, this is a continuation of the e-mail I just showed
10 you, right?

11 A That's correct.

12 Q Okay. Because those were starting in the morning,
13 and now we're in the evening?

14 A Right.

15 Q Okay. And so this is a follow-on. And so when
16 you're talking here about -- when you say, "I think
17 involving the Governor's wife or assistant may look like
18 the gov is influencing UVA," that information came from
19 Star, didn't it?

20 A That is correct.

21 Q Okay.

22 MR. BROWNLEE: You can take that down.

23 Can we pull up Government's Exhibit 262? And go to
24 the next page. If we could blow up that photograph.

25 BY MR. BROWNLEE:

1 Q Now, Ms. Krueger -- am I pronouncing it right, by the
2 way?

3 A Krueger.

4 Q Krueger. I apologize. Ms. Krueger, you testified
5 that you -- at some point you decided to do some due
6 diligence and you went on I think the Star website, or
7 somewhere, and pulled this photograph?

8 A I pulled it off of Facebook.

9 Q Off the Facebook. Okay. And you said that in seeing
10 this photograph, that influenced one of your later
11 statements that you thought he supported this product; is
12 that correct?

13 A That is correct.

14 Q Okay. Were you aware that this picture went through
15 the channels in the Office of the Governor and was
16 actually approved by staff to be released?

17 A No, I do not.

18 Q Okay. All right.

19 MR. BROWNLEE: We can take that down.

20 BY MR. BROWNLEE:

21 Q Now, I think you were -- you met with government
22 counsel, I believe; is that correct?

23 A Yes.

24 Q Yes. Okay. And at some point you testified that you
25 attended an event for a company called MicroAire; is that

1 correct?

2 A That's correct.

3 Q Okay. And tell us what that event was about.

4 A So MicroAire is a -- a small surgical supply company
5 located in Charlottesville, Virginia. And in -- gosh, it
6 was in the spring, and I can't remember the year, they
7 actually moved to a much larger facility. And the
8 Governor and his wife were at the grand opening at that
9 facility.

10 Q All right.

11 MR. BROWNLEE: Let me show you, just for the
12 witness, RM-0166-0001. No. 0166-0001. There you go. If
13 you could blow that up.

14 BY MR. BROWNLEE:

15 Q Is this the event you're referring to?

16 A Yes, it is.

17 MR. BROWNLEE: All right. Your Honor, we move
18 RM-0166 into evidence.

19 THE COURT: It will be admitted.

20 MR. BROWNLEE: Thank you.

21 If we could just publish this.

22 BY MR. BROWNLEE:

23 Q And so this is Governor McDonnell at MicroAire, and
24 they are expanding and they make apparently -- I think you
25 said surgical --

1 A Orthopaedic equipment.

2 Q Like saws and things?

3 A Yes.

4 Q Okay.

5 MR. BROWNLEE: You can take that down.

6 BY MR. BROWNLEE:

7 Q And one other thing. I won't pull it up again, but
8 you -- in one of your notes, you say, "This is the awkward
9 part as Governor McDonnell has publically announced his
10 support for the parent company, Star Scientific."

11 And I think you testified one of the reasons you
12 wrote that is because of the picture; is that right?

13 A That is correct.

14 Q But up to that point, you had never had a
15 conversation with Bob McDonnell about Star or Rock Creek
16 or any of that?

17 A That is correct.

18 Q Okay. You talked a little bit about your
19 conversations with Dr. Lazo; is that correct?

20 A Yes.

21 Q Okay. And you mentioned something. You said his
22 testimony was -- he asked you a question, and you said
23 something about his testimony was different or something.
24 What did you mean by that, "his testimony"?

25 A I guess I'm kind of unclear of -- was it the

1 conversation John and I had? John Lazo and I had are you
2 talking about?

3 Q No, ma'am. You just referenced Dr. Lazo's testimony.
4 And I was just wondering --

5 A Oh. Oh. He -- just following the trial, the media
6 portrayal on the trial.

7 Q I see.

8 A It was mentioned that John spoke to a senior
9 researcher official at the university on his drive home.

10 Q I see.

11 A And I don't think that he meant me.

12 Q Okay. All right. And so -- I just wanted to make
13 sure. So when you referenced his testimony, you're just
14 following the press accounts?

15 A Yes.

16 Q Okay. Now, counsel asked you about Dr. Lazo and some
17 of his thoughts on these research principles. I believe
18 you have some reference to that in your notes; is that
19 correct?

20 A Yes.

21 Q Okay. Were you aware that Dr. Lazo has testified --
22 you obviously know that, correct?

23 A Yes.

24 Q And he was asked whether or not Bob McDonnell -- if
25 there's anything Bob McDonnell had done that would have

1 violated any of those principles?

2 MR. FAULCONER: Objection, Your Honor, as to
3 commenting on Dr. Lazo's testimony.

4 THE COURT: Sustained.

5 BY MR. BROWNLEE:

6 Q All right. And in those notes, in your conversations
7 with Dr. Lazo, would you agree that Dr. Lazo's in court,
8 under oath testimony is a better reflection of what he
9 actually saw and said than your notes of a conversation
10 you had with him?

11 MR. FAULCONER: Objection, Your Honor.

12 THE COURT: Sustained.

13 MR. BROWNLEE: Thank you, Your Honor.

14 BY MR. BROWNLEE:

15 Q Now, you testified that Star, or Rock Creek, never
16 actually responded or got back to you guys about applying
17 for any of these tobacco grants; is that correct?

18 A That is correct.

19 Q Okay. So there was some discussions. I think you
20 had a phone call with some of the folks at Star, and then
21 after that, nothing ever happened?

22 A The day after the call, I was sent, and maybe Mark
23 Crowell was cc'd on it, just a follow-up, scientific
24 journal article and a poster from a research presentation
25 from Rock Creek. And then that was it.

1 Q That was it. And did you ever have any conversations
2 with Bob McDonnell about Rock Creek or Anatabloc or
3 anything?

4 A No, I did not.

5 Q Okay. So fair to say that all this -- these e-mails
6 and notes and all -- all of it comes from someone else
7 other than Bob McDonnell?

8 A That is correct.

9 Q Okay.

10 MR. BROWNLEE: And let me just do one last
11 thing, Your Honor, and I'm just about done.

12 Can you pull up Government's Exhibit 268 and just
13 look at the far two left, the left-hand side.

14 BY MR. BROWNLEE:

15 Q It's kind of hard to see, but I think the first one,
16 it says, "Date Letter Received." One of them says
17 August 1. Number 2 says August 11th. Number 3 says
18 August 15th. Number 4 says August 17th. Number 5 says
19 August 18th maybe.

20 MR. BROWNLEE: If you'll go down.

21 BY MR. BROWNLEE:

22 Q Then 6 is August 18th. The 7th is the 19th.

23 Are those accurate dates, ma'am?

24 A So I -- you know, this is a document that's created
25 by our Office of Sponsored Programs. So I never saw the

1 request for proposals. So this is how they track either
2 when letters were submitted or funding was granted. But I
3 never -- I wasn't aware of anything at this time, in
4 August.

5 Q Okay.

6 MR. BROWNLEE: You can take that down.

7 BY MR. BROWNLEE:

8 Q And then lastly, they asked you about some event in
9 May of 2013 with the Governor of Nebraska.

10 A Yes.

11 Q Okay. Did that event have anything to do with Star
12 or --

13 A No. No. No. That did not.

14 Q Okay. And I believe at that event Secretary Cheng
15 attended?

16 A Yes, he did.

17 Q Okay. And has Governor McDonnell, in prior times,
18 attended those types of events at Virginia?

19 A Yes.

20 Q Okay. So he has --

21 A Yes.

22 Q He has, I guess, positively responded to your
23 invitations on occasion?

24 A Not necessarily mine, but the -- from the Office of
25 the Vice President for Research. Yes.

1 Q Okay. Good. All right.

2 MR. BROWNLEE: Thank you, Judge.

3 THE COURT: All right. Ms. McDonnell.

4 **CROSS-EXAMINATION**

5 BY MR. KOFFMANN:

6 Q Good afternoon, Ms. Krueger. My name is Dan
7 Koffmann, and I'm an attorney for Maureen McDonnell.

8 Ms. Krueger, you testified -- you were shown a
9 picture by Mr. Brownlee of you at a -- or Governor
10 McDonnell at a MicroAire event?

11 A Correct.

12 Q And you attended that event, right?

13 A Yes.

14 Q To your knowledge, did Maureen McDonnell attend that
15 event?

16 A Yes, she did.

17 Q And did you have an opportunity to speak with her at
18 that event?

19 A No, I did not.

20 Q Have you ever had an opportunity to speak with
21 Ms. McDonnell?

22 A No, I have not.

23 Q So Maureen McDonnell has never pressured you to do
24 anything?

25 A No, she has not.

1 Q And she's never even spoken to you about Anatabloc?

2 MR. FAULCONER: Objection, Your Honor. Asked
3 and answered.

4 THE COURT: Overruled.

5 A That is correct.

6 MR. KOFFMANN: Thank you.

7 THE COURT: Any redirect?

8 MR. FAULCONER: Very briefly, Your Honor.

9 **REDIRECT EXAMINATION**

10 BY MR. FAULCONER:

11 Q Ms. Krueger, you were shown the dates on that -- on
12 that form --

13 A Yes.

14 Q -- that originally was sent to you.

15 As of the time that you were on the conference call
16 in late November 2011 talking about the potential
17 applications to the Tobacco Commission, was it your
18 understanding that that application had already been made
19 to the Tobacco Commission or that that was something that
20 was being considered?

21 A So this actually was an exploratory call to discuss
22 the early opportunity of -- or to discuss potentially
23 putting in a Tobacco Commission grant.

24 Q So those dates on the form, are those referring to
25 the planning grants or to the Tobacco Commission grants?

1 A Those are referring to the pilot study grants.

2 MR. FAULCONER: One moment, Your Honor.

3 No further questions, Your Honor.

4 THE COURT: All right.

5 Thank you, ma'am. You may stand down.

6 (Witness stood aside.)

7 THE COURT: Call your next witness, please.

8 MR. DRY: The United States calls Jerry Kilgore
9 to the stand, Your Honor.

10 **JERRY KILGORE,**
11 called as a witness by and on behalf of the government,
12 having been first duly sworn by the Clerk, was examined
13 and testified as follows:

14 **DIRECT EXAMINATION**

15 BY MR. DRY:

16 Q Mr. Kilgore, can you state your full name for the
17 record, sir.

18 A Yes. Jerry W. Kilgore.

19 Q And what city and state do you currently live in?

20 A I live in Glen Allen, Virginia.

21 Q And how are you currently employed?

22 A I work at McGuireWoods Consulting.

23 Q And what is McGuireWoods Consulting?

24 A It's a -- it's a lobbying firm, for lack of a better
25 description.

1 Q Okay. And how long have you been with McGuireWoods
2 Consulting?

3 A For five years.

4 Q And specifically, what do you do at McGuireWoods
5 Consulting?

6 A I co-chair the National Practice Team, which is the
7 team that goes out and -- and works with state Attorneys
8 General and state Governors.

9 Q Okay. And who are you interacting with these state
10 Governors and state Attorney Generals on behalf?

11 A On behalf -- business clients, usually.

12 Q Okay. So business clients hire you to do what?

13 A They hire me to -- to go to meetings with state AGs
14 or governors and work on their issues, whether it's
15 consumer protection issues or -- or just dealing with
16 various investigations by state Attorneys General. So
17 just a whole gamut of things.

18 Q And when did you first meet Mr. McDonnell?

19 A It would have been in '93, '93 when I was working
20 with the George Allen campaign, but then became Secretary
21 of Public Safety for then Governor George Allen in January
22 '94.

23 Q Okay. I'm sorry. Who was Secretary of Public
24 Safety?

25 A I was Secretary of Public Safety, and became

1 Secretary of Public Safety in January of 1994.

2 Q Okay. And that was in whose administration?

3 A Governor George Allen.

4 Q Since the time you met him, how would you describe
5 your personal relationship with -- or your relationship
6 with Mr. McDonnell?

7 A Right. It was, you know, a political relationship.
8 He was a member of the General Assembly on the Courts of
9 Justice Committee, which was the committee that the
10 Secretary of Public Safety had to deal with and get
11 legislation passed out of. He handled a lot of our
12 legislation from -- from the Governor Allen administration
13 on pro abolition, juvenile justice reform.

14 And then over time, you know, I would say we became
15 personal friends. He ran for -- after I served as
16 Attorney General, he ran for Attorney General with me
17 running for Governor on the same ticket.

18 Q Okay. And let's just unpack that a little bit. When
19 did you run for Attorney General of Virginia?

20 A I ran twice, actually. First in 1997, in a four-way
21 primary, and I didn't quite make it then. And then I won
22 in 2001 and started service in January of 2002.

23 Q And during your campaign for Attorney General, did
24 you use private airplanes of political donors?

25 A When we could. Yes.

1 Q Okay.

2 A It made it easier to get to Southwest Virginia or
3 other areas of the state.

4 Q Okay. And was Mr. Williams one of your political
5 contributors?

6 A Yes.

7 Q And you rode on his plane?

8 A Yes.

9 Q When did you first meet Mr. Williams?

10 A It would have been during the Attorney General's
11 campaign.

12 Q And what was the context of your meeting him?

13 A He was a political supporter.

14 Q Okay. And what did you know about Mr. Williams at
15 that time?

16 A Just that it was Star Tobacco at the time, Star
17 moving into Star Scientific, and that he was one of the
18 independent tobacco marketers, if you will, in Southside
19 Virginia.

20 Q When you say "independent," what does that mean?

21 A Well, it's not one of the big five, like Philip
22 Morris and some of those. But one of the more independent
23 tobacco manufacturers and growers in Southside Virginia.

24 Q And how would you describe your relationship with
25 Mr. Williams during your campaign for Attorney General?

1 A It would -- it would have been political supporter.
2 Candidate, political supporter.

3 Q Okay. And did Mr. Williams ever donate actual money
4 to your campaign for Attorney General?

5 A Yes. I believe so.

6 Q And were these all in the context of campaign
7 contributions?

8 A Yes.

9 Q Okay. Did you ever receive any personal money or
10 loans from Mr. Williams while you were running for
11 Attorney General?

12 A No.

13 Q Okay. And when did you serve as Attorney General of
14 Virginia?

15 A From 2002, January 2002, until the beginning of 2005.

16 Q And during that time, how would you describe your
17 relationship with Mr. Williams?

18 A Political supporter, candidate for Governor then, you
19 know, running for Governor during some of that time.

20 Q And while you were Attorney General, did you receive
21 any personal loans or money from Mr. Williams?

22 A No.

23 Q Did he ever offer you any?

24 A No.

25 Q Now, you stepped down as Attorney General in 2005, I

1 believe you said?

2 A Correct.

3 Q And what did you do after you stepped down from your
4 role as Attorney General?

5 A Unfortunately, I ran for Governor.

6 Q Okay. And while you were running for Governor, I
7 believe -- you alluded to this. I just want to make sure
8 I'm clear on it.

9 Who was also running on your ticket, I guess?

10 A Governor McDonnell was running for Attorney General.

11 Q And did you make joint campaign appearances with
12 Mr. McDonnell, who was running for Attorney General?

13 A Oh, yes. Absolutely. Plenty of those.

14 Q Okay. And what's your relationship like with
15 Mr. McDonnell at that point?

16 A I -- I would say personal friend, political ally.
17 All of the above.

18 Q Now, did Mr. Williams ever make campaign
19 contributions for your campaign for Governor?

20 A Yes.

21 Q And do you have any idea how much those would be?
22 Was he the largest contributor?

23 A He wasn't the largest, but I would say he and Star
24 together were probably around \$100,000.

25 Q Okay. And at the time you're running -- I'm sorry.

1 I know this is going to be painful, but I'll ask. What
2 were the results of your race for Governor?

3 A I did not win.

4 Q And what were the results of Mr. McDonnell's race for
5 Attorney General?

6 A He did win.

7 Q Okay. Now, after -- and that was in 2005, I believe?

8 A Correct.

9 Q After that, where do you go next?

10 A I went to Williams Mullen and basically did the same
11 thing there that I'm doing at McGuireWoods.

12 Q You were a lobbyist?

13 A I was a lobbyist.

14 Q And then --

15 A And attorney. Sort of a mix, a hybrid there.

16 Q Okay. And then when did you -- what year did you go
17 to McGuireWoods?

18 A I went to McGuireWoods in -- in January 2010.

19 Q Okay. Now, in 2009, Mr. McDonnell is running for
20 Governor; is that right?

21 A Correct.

22 Q Did you assist in his campaign?

23 A Yes. I was on the Finance Committee.

24 Q And what do you do -- what was your role as being on
25 the Finance -- first of all, can you explain what a

1 Finance Committee does?

2 A Finance Committee is a group of people that assist a
3 candidate in raising money for their race.

4 Q When you say "raising money," what is that?

5 A Contacting donors, contacting businesses that might
6 contribute to a candidate and bringing those dollars in
7 for the campaign to be used on advertisements and -- and
8 campaign expenses.

9 Q All right. Can you distinguish between a campaign
10 contribution and somebody giving personal money?

11 A Well, I mean, a campaign contribution is to be used
12 solely for that campaign. You know, expenses of the
13 campaign, like you have staff or you -- you want to save
14 as much money as possible to -- to buy those ads at the
15 end, in September and October, that go on TV or the radio
16 and things like that.

17 Personal would just be outside of the campaign. It
18 would have nothing to do with the campaign.

19 Q Okay. And you mentioned briefly what a campaign
20 contribution is. Can you describe what an in-kind
21 contribution is?

22 A That would be a contribution of services, whether
23 it's a plane. You mentioned that earlier. It could be an
24 in-kind. Somebody giving you an office space, buying --
25 buying dinners for -- for everybody at an event or

1 something. Those could be in-kind. You just put the
2 value, to the best of your ability, down on the campaign
3 finance report and report it.

4 Q Okay. And you mentioned a "campaign finance report."
5 If somebody makes a campaign donation, how is that tracked
6 and reported?

7 A Well, you -- you're obligated, under state law, to
8 file with the State Board of Elections every so often,
9 every -- you know, and it gets shorter and shorter as your
10 race is getting shorter and shorter in days. So you may
11 start out reporting every six months, and then you'll file
12 reports every 30 days. And then at the end, you're filing
13 them every ten days, and then maybe every day if you get
14 large enough donations.

15 Q And are you reporting just money in or are you
16 required to report money out?

17 A You're reporting money in and money out. You're
18 reporting the money you've raised and the expenditures
19 you've made.

20 Q Okay. So during the Governor's -- Mr. McDonnell's
21 campaign for Governor in 2009, how would you describe your
22 relationship with Mr. McDonnell at this point?

23 A Great relationship. Just working to raise the
24 dollars necessary to be competitive.

25 Q Okay. And you're out of politics at this point --

1 A I'm --

2 Q -- as a candidate?

3 A As a candidate for sure. Yes.

4 Q Okay. And how is -- what's your relationship with
5 Mr. Williams like at this point?

6 A I mean, just, you know, good. I mean, it's a -- he's
7 a political person. He's a donor I would call to -- to
8 raise money for candidates.

9 Q Okay. Now, when do you first start having a business
10 relationship with Mr. Williams?

11 A In -- during the summer of 2011.

12 Q Okay. So this is after Mr. McDonnell has been
13 elected Governor?

14 A Correct.

15 Q And you've worked on his campaign committee, or
16 his --

17 A Finance.

18 Q -- Finance Committee?

19 A Correct.

20 Q Was there any other committee after he won the
21 election that you worked on?

22 A Yes. The Higher Education Board Appointments
23 Committee. I worked on that with the Governor and his
24 staff.

25 Q How about the Inaugural Committee?

1 A Yes. I'm sorry. Yes, I did. I worked on -- I was
2 the co-chair of the inauguration.

3 Q Okay. Now, going to -- I believe you said the summer
4 of 2011, you started having a business relationship with
5 Mr. Williams. Can you -- just tell us, how did that come
6 about?

7 A He called me in the summer of 2011, July time frame,
8 and asked me to meet him for lunch in town, and we met for
9 lunch. And he wanted to talk about getting research
10 dollars from the State for his product.

11 Q And what product was that?

12 A Anatabloc. And he, you know, was describing
13 anatabine and all that -- the good it could do. And he
14 needed it researched in Virginia, and he thought I and the
15 consulting firm would be the place to go to make sure that
16 we helped him get the research dollars through -- he
17 mentioned first the Tobacco Commission and --

18 Q Okay. So he brought that up in that meeting?

19 A He brought up the Tobacco Commission, going after
20 Tobacco Commission funding for this research. And I
21 brought up that, you know, you should look broadly at
22 state government for research dollars, that, you know,
23 just don't rely on the Tobacco Commission. You should
24 look at other ways to get those dollars, whether through
25 the budget or through grants. And you just got to look at

1 all of state government to figure out if there are
2 research dollars out there.

3 Q And when you mention "the budget," what exactly are
4 you discussing with him about potential funding sources?

5 A Well, when I'm -- when I mention the budget, I mean
6 the biannual budget that the Commonwealth passes every two
7 years, but it amends every year. So it's like dealing
8 with a budget every year, technically.

9 And you try to, on behalf of clients, get support
10 for, if you will, a line item in the budget for particular
11 research or for a particular product or for a particular
12 item.

13 Q Okay. And this meeting was July 6th of 2011; is that
14 right?

15 A That sounds right. Correct.

16 Q What did Mr. Williams tell you during this meeting
17 regarding his relationship with Mr. McDonnell?

18 A During that meeting, he did say that the Governor and
19 the First Lady both supported his product and supported --
20 would support getting research on his product.

21 Q And did he mention their support for state funding
22 for the research?

23 A He mentioned that they would be supportive of that,
24 yes.

25 Q Now, was anyone else present during your meeting with

1 Mr. Williams on July 6th?

2 A No.

3 Q It was just you and he?

4 A Just the two of us.

5 Q Now, can you kind of -- first of all, were you aware
6 of the process -- he mentions the Virginia Tobacco
7 Commission, right? Were you aware of the process of the
8 Virginia Tobacco Commission?

9 A Yes. I mean, for the most part, I'm aware of the
10 Virginia Tobacco Commission process. But I do know they
11 have deadlines and they have specific funding cycles, you
12 know, whether it's research cycle or other types of
13 cycles. They have defined cycles at the Tobacco
14 Commission.

15 Q And can you just briefly describe what the Virginia
16 Tobacco Commission is?

17 A It was -- the Virginia Tobacco Commission was
18 established by the large -- what we call the master
19 settlement agreement with the five large tobacco companies
20 back before I was AG that sends a stream of money into
21 each state that was -- into each state, now all 50 states.
22 But Virginia chose to use their stream of dollars in two
23 ways. One would be to give 90 percent of those dollars to
24 the Tobacco Commission to give out through grants to
25 regions of the Commonwealth that grew tobacco to diversify

1 those economies and to make sure they are no longer
2 tobacco dependent.

3 The other 10 percent goes to the Virginia Healthy
4 Youth Foundation to deal with anti-smoking campaigns.

5 Q Okay. And who serves as commissioners?

6 A The -- it's a 31-member committee -- commission. You
7 would have -- members of the House and the Senate would
8 probably be -- I think 11 of those members are -- 11 or 12
9 are members from the House and the Senate. The rest are
10 appointed by the Governor or the Governor's designates.

11 Q Okay. And, in fact, do you have a family relation
12 that works on --

13 A Yes, I do.

14 Q -- that?

15 A My brother is the Chairman. He's in the House of
16 Delegates, and he's the Chairman of the Tobacco Commission
17 at this point.

18 Q And to be clear, the Governor didn't appoint him to
19 the Tobacco Commission? That's --

20 A No. He's appointed by the House of Delegates. And
21 the House and the Senate have to appoint members from
22 those tobacco growing areas. So since he represents
23 the -- the far western corner of state, then he represents
24 the Burley tobacco area.

25 Q Okay. Now, as a result of your meeting on July 6

1 with Mr. Williams, what resulted? What was your
2 relationship? He had been a political donor. Now what is
3 he?

4 A He became a client.

5 Q All right.

6 A So I just go back and --

7 Q Yeah.

8 A -- talk with my staff, mainly Chris Nolen, in my
9 office to, "Let's come up with a plan, how do you want to
10 deal with" -- "how do we want to deal with approaching the
11 Tobacco Commission and looking for other funding sources."
12 And I immediately said, "Well, I better call and see if
13 there's a deadline coming up."

14 So I called my brother to see if there was a deadline
15 coming up, and there was one coming up for research. And
16 it was coming up in August.

17 Q Okay. You just mentioned "research." Could the
18 Virginia Tobacco Commission use Tobacco Commission funds
19 for research?

20 A Yes, they could. And they have a cycle for research
21 and development. And that's the cycle I'm referring to
22 that was going to come up in August, in the August time
23 frame of 2011.

24 Q Okay. And that cycle, the August time frame, is that
25 for the pre-applications for the final application?

1 A That's for the application.

2 Q Okay. Were you able to make that August deadline as
3 far as submitting grants applications?

4 A No, we did not. We were working with Bob Pokusa, who
5 is the general counsel, at the time, at Star, and we were
6 pushing them, "If you're going to do this, we've got
7 to" -- "if you're going to do it for this cycle, we've got
8 to it quickly. We've got to get all of our information
9 together."

10 And we had some problems with how they wanted to do
11 it because Mr. Williams had suggested that the partnership
12 needed to be with Johns Hopkins, and I totally advised
13 against that because I did not believe that -- that the --
14 this Tobacco Commission would partner with a University of
15 Maryland.

16 Q So what did you recommend that he do?

17 A I told him you have to get a Virginia research
18 institution to deal with this. And we suggested VCU or
19 UVA, to go for research folks at those facilities because
20 that would make it more palatable to the Commission.

21 Q And just so I'm clear. Why is it going to be more
22 palatable to have UVA or VCU rather than Johns Hopkins?

23 A Because they are in the Commonwealth of Virginia.
24 And this money, the commissioners would -- I'm convinced
25 the Commission likes to spend money on Virginia projects,

1 not see Marylanders getting the money.

2 Q And did you mention that to Mr. Williams?

3 A Mr. Pokusa.

4 Q Mr. Pokusa?

5 A Yes.

6 Q And did Mr. Williams, in your conversations with him,
7 did he agree, "All right. UVA and VCU sounds great"?

8 A Eventually, yes. They -- they all agreed that we
9 should be focusing on UVA and VCU.

10 Q Now, in July of 2011, were you aware -- after your
11 meeting with Mr. Williams, were you aware that Star
12 Scientific was going to hold a conference at Gibson
13 Island?

14 A Yes. I was invited to that conference originally by
15 Mr. Williams. He said that I should go to the conference
16 and learn more about Anatabloc and learn more about the
17 benefits and hear the researchers talk about it.

18 And I was like, "Okay. I can go." And then
19 Mr. Pokusa called me and told me I should not go. I did
20 not need to go.

21 Q Okay. Were you excited about listening to more about
22 Anatabloc?

23 A No. I was happy not to go, actually.

24 Q After the Gibson Island event, did you have any
25 conversations with Mr. Williams about it?

1 A After the Gibson Island?

2 Q Yep.

3 A Yes. At a lunch.

4 Q Okay. And what did Mr. Williams tell you regarding
5 the Governor's support?

6 A That the Governor was very supportive of -- of
7 Anatabloc and that the First Lady was attending -- going
8 to attend the Gibson Island.

9 Q And did you subsequently learn that the First Lady
10 didn't attend, but somebody else attended?

11 A I did learn that she did not attend, and that
12 Ms. Sutherland, instead, attended for her.

13 Q Okay.

14 MR. DRY: I'd like to bring up Government's
15 Exhibit 202, please.

16 BY MR. DRY:

17 Q Do you do you recognize this e-mail sir?

18 A Yes, I do.

19 Q And just to be clear, Mr. Nolen works for you?

20 A He works with me. I don't think he'd like me to say
21 he works for me.

22 Q And this is to Bob Pokusa?

23 A Yes.

24 Q And you authorized Mr. Nolen to send this e-mail?

25 A Yes. We worked on this together.

1 MR. DRY: Government moves for the admission of
2 Government's Exhibit 202, please.

3 THE COURT: It will be admitted.

4 BY MR. DRY:

5 Q Sir, basically, what is the purpose of this e-mail?

6 A It's to outline for Mr. Pokusa the activities that we
7 believe needs to be done to ensure that we have the
8 opportunity to get research dollars for the testing of
9 Anatabloc.

10 Q And there's an attachment with a memo?

11 A Yes. Correct.

12 MR. DRY: Can we go to the second page of this.

13 BY MR. DRY:

14 Q And did you and Mr. Nolen author this memo to Bob
15 Pokusa?

16 A Yes, we did.

17 Q And at this point, to be clear, who's your primary
18 point of contact at Star Scientific?

19 A At this point, it had become Mr. Pokusa only.

20 Q Okay. And Mr. Pokusa was what?

21 A He was the general counsel.

22 Q Okay. And can you -- what's the subject line of
23 this?

24 A It's the "Draft Timeline of Activities to Obtain
25 Tobacco Indemnification and Community Revitalization

1 Commission, TICRC, Grant Funds."

2 Q And going to the second paragraph, you talk about, "A
3 pivotal aspect of the proposed activities is to know the
4 decision-making process at UVA to pursue grants of this
5 nature."

6 Walk us through what had to happen before you could
7 make an application to the Tobacco Commission.

8 A Well, the Tobacco Commission rarely would give a
9 grant to a private entity. I mean, it would -- it's just
10 rare. I mean, they prefer to have localities or
11 universities, someone with a governmental function to
12 apply for those grants on behalf of a company.

13 And that's why we were pushing UVA or VCU, and at
14 this -- and we wanted to understand -- because it wasn't
15 part of our job to get -- to locate these researchers at
16 UVA -- what is the decision-making process at UVA. "We
17 need to know that, Bob, so that we can project a timeline
18 with you."

19 Q Okay. Just so I understand. You're going to be
20 responsible for putting together the grant application or
21 submitting it to the Tobacco Commission, right? That's
22 what McGuireWoods is hired to do?

23 A Yes. And working with the Commission staff and
24 working with the commissioners, if we get that far.

25 Q But before that happens, what does UVA have to decide

1 to do under this plan?

2 A They have to decide to be a partner with Star, and
3 they have to decide to take the lead on applying with the
4 Tobacco Commission.

5 Q Now, is part of your role to call the UVA
6 administrators up or the scientists and start that
7 process?

8 A This was not our role in this case. No.

9 Q Who was responsible for doing that?

10 A That was Star's role.

11 Q Okay. And on the third paragraph where it says,
12 "Additionally, we think it is worth exploring whether the
13 McDonnell Administration would consider allocating some
14 additional funds to UVA's state appropriations for use as
15 matching funds to leverage TICRC funds."

16 First of all, TICRC, that's the Tobacco Commission
17 acronym?

18 A Correct.

19 Q Okay. Sometimes it's VTC for that?

20 A I have.

21 Q Okay. Now, what are you talking about "matching
22 funds"?

23 A Well the Tobacco Commission, on their
24 pre-application, their application, like to see others
25 have skin in the game, if you will, to other entities to

1 be supporting this as well. Whether it's the private
2 entity or the locality or the other state entity, they
3 like to know that others are supporting this project
4 through some funding or through giving all the staff --
5 you know, to quantify, if you will, that process.

6 Q Now, your next sentence you write, "We need to
7 determine whether this is possible and if so, make the ask
8 directly to the Governor."

9 Why did you want to make the ask directly to the
10 Governor?

11 A So that it would be included in the Governor's budget
12 or the budget amendments.

13 Q Going to the third page of this exhibit, sir, is this
14 the draft timeline that you put together?

15 A Yes.

16 Q All right.

17 MR. DRY: Let's go to the first block.

18 BY MR. DRY:

19 Q In August, it says, "Determine extent of interested
20 researchers/partners. Determine UVA internal approval
21 process. Initiate UVA approval process."

22 Who's going to be doing that?

23 A The -- Star is supposed to do that.

24 Q Okay. And then going down, the September time
25 frame -- and these are -- is it fair to say this is like a

1 timeline proposal to your client where you're saying, hey,
2 these are what needs to be checked off?

3 A Yes. This is our wish list of things we want Star to
4 accomplish with us.

5 Q Okay. And then it talks about, "Prepare advocacy
6 materials for use in meetings with government officials.
7 Complete a pre-application. Schedule a meeting with
8 Tobacco Commission staff. Initiate drafting of the
9 application."

10 But this next bullet point, you have, "Schedule
11 meeting with Governor McDonnell and Governor's policy
12 staff," and you write "J. Williams and J. Kilgore required
13 to request Governor to include state appropriation to UVA
14 for specific research, which could be eligible for the
15 match."

16 Why did you want -- I think we talked about why you
17 wanted to have a meeting with Mr. McDonnell. Why did you
18 want Mr. Williams to be at that meeting?

19 A Because generally, if you're making an ask for the
20 state Budget, you want the principal in the room to ask
21 the other principal, which would be the Governor, and to
22 express why it's needed and what the background is.

23 I mean, I would submit that just having me in the
24 room wouldn't possibly get the job done because we're --
25 we're in the Governor's Office on so many other things.

1 Q And did Mr. Williams express to you anything about
2 the Governor's support of his product by this point?

3 A Yes. I mean, he had said that the Governor and First
4 Lady strongly supported Anatabloc.

5 Q Now, at the time of this memorandum -- Mr. Williams
6 has told you about the Governor's support. Did he tell
7 you anything about taking the First Lady shopping in New
8 York City?

9 A No.

10 Q And had he told you anything about writing a \$50,000
11 check made payable to her?

12 A No.

13 Q Had he told you anything about paying \$15,000 for the
14 Governor's daughter's wedding reception?

15 A No.

16 Q Anything about the Governor playing golf at Kinloch
17 on his tab?

18 A No.

19 Q Now, have you known Mary-Shea Sutherland for a while?

20 A Yes.

21 Q Okay.

22 A I have.

23 Q I'd like to move to the meeting that you had. I
24 believe it was at The Berkley Hotel on August 1st of 2011.
25 Do you remember that meeting?

1 A Yes.

2 Q Okay. And how did that come about?

3 A Originally scheduled by Mary-Shea as just a catch-up
4 time. We do this occasionally to catch up with each
5 other. She worked with me back in '94 through '97.

6 Q And in what context did Ms. Sutherland work with you?

7 A She was -- I was Secretary of Public Safety, and she
8 worked in my inner office. And she was the grants
9 administrator for the entire Secretary of Public Safety.

10 Q And did you know her while she was working at
11 Benedetti & Farris in any context?

12 A Yes. I knew her as a fundraiser that I worked with
13 on various campaigns.

14 Q Okay. Now, let's go to this Berkley Hotel meeting.
15 You said it was originally scheduled, it was just going to
16 be with Ms. Sutherland?

17 A Right.

18 Q It was kind of a typical thing, every now and then?

19 A Right.

20 Q Who else shows up at this meeting?

21 A Jonnie Williams.

22 Q And who -- it's Ms. Sutherland, Mr. Williams, and
23 you. Anybody else at it?

24 A That's it.

25 Q Just walk me through what's discussed at this

1 meeting.

2 A Catching up first. But then, you know, Mary-Shea and
3 Mr. Williams start talking about getting her a job and
4 finding her another job because she's telling me she's
5 totally unhappy at the Mansion and does not want to work
6 for the First Lady anymore and wants a new job and wants
7 out of there.

8 And immediately they bring up that she wants to go to
9 work for Jonnie, and they are talking this back and forth.
10 And Jonnie turns to me and asks me if -- if we would hire
11 her at -- at McGuireWoods Consulting and make a place for
12 her and he would find a way to -- to give her business.

13 And I'm like, "We just don't have a position like
14 that that's open right now, and I'm not sure we're going
15 into that area."

16 So then they started talking about other ways to make
17 it happen. And they -- I think Mary-Shea -- Mary-Shea
18 brought up, you know, going back to Benedetti & Farris,
19 with Jonnie being a client of hers at Benedetti & Farris.

20 Q And what's -- what's Ms. Sutherland's demeanor as
21 she's telling you that she's unhappy on the First Lady's
22 staff?

23 A Oh, she's very emotional that day about her work at
24 the Mansion.

25 Q Was it -- did she make it clear to you that she was

1 leaving the Mansion no matter what?

2 A Oh, I left there thinking she was leaving the
3 Mansion.

4 Q Okay. What did Mr. Williams say as you're -- as the
5 meeting is discussing Ms. Sutherland's employment, what is
6 Mr. Williams saying regarding whether he's going to hire
7 her or not?

8 A Well, it seems to me like during that meeting, it's
9 a -- a job negotiation lunch more than anything. Here I
10 thought I was going to this lunch just to causally meet up
11 with Mary-Shea, and it becomes a job negotiation lunch.

12 And he -- at the end of it, as we're leaving, he's
13 asking her to get with Benedetti & Farris and put a
14 proposal together. And then he says send it to me, which
15 I didn't know I was going to be involved in that until
16 that very moment, to send that proposal to me. And that's
17 how we left that lunch. And then I got the proposal a few
18 weeks -- or a week or so later. Two weeks later, I think.
19 Two or so weeks later.

20 Q Okay. And --

21 A Maybe longer than that. I'm trying to -- longer than
22 that.

23 Q Okay. And are they talking about salary at this
24 meeting? When you say a job negotiation, are they sitting
25 there saying, "This is what you've got to pay" or

1 anything?

2 A No. No. We did not get into that detail. But we
3 got into, you know, she would work -- you know, her
4 proposal was she would work for him. He would be a client
5 of Benedetti & Farris.

6 Q Okay. And he says, "Send a proposal to Jerry
7 Kilgore"?

8 A Correct.

9 Q Okay. And were you negotiating on behalf of
10 Mr. Williams this proposal that came over later?

11 A No. I mean, I got the proposal from Abby Farris at
12 Benedetti & Farris. And I've known her for a -- for
13 almost my entire -- my entire political career. So, you
14 know, Abby called me about it, sent it over. And I said,
15 "Well, I'll just get it on to Mr. Williams." And so I
16 tried to call him, tried to reach out to him several
17 times, and actually never reached him about this
18 particular contract. And -- or this proposal.

19 And they kept calling. Abby would call. And then I
20 got a call from -- one day from Tom Benedetti. And I
21 eventually talked with Chris Nolen, who also works with
22 me, and we decided we best just ship that off to
23 Mr. Pokusa and ask Mr. Pokusa, since he was general
24 counsel to Star, and that's who would be using her, I
25 would -- we thought. So just have Mr. Pokusa take care of

1 it.

2 Q Before you sent the proposal that you received from
3 Benedetti & Farris to Mr. Pokusa, did you have any
4 conversations with Mr. Williams about it?

5 A I tried to call him about it, but never really had a
6 conversation or reached him about it.

7 Q But after you sent it to Mr. Pokusa, did you
8 subsequently have a conversation with Mr. Williams about
9 the proposal?

10 A Yes.

11 Q And tell us what happened then.

12 A That would have been in September of -- after we had
13 sent it to Mr. Pokusa. And I asked Mr. Williams about it.
14 I said, you know, "It was" -- "I thought, you know" -- I
15 said, "I thought, you know, you all were going to hire
16 her, and what happened?" He said he just could not hire
17 her. It was poaching on the First Lady's Office, and he
18 was not going to do that.

19 Q Did he explain why he didn't want to do that?

20 A He needed -- he told me he needed the support of the
21 First Lady for his product and did not want to make her
22 mad.

23 Q What did he ask you to do after that call?

24 A I didn't deal anything with that issue because I had
25 already shipped it off to Pokusa.

1 Q All right. Let's take a step back. Because that --
2 I believe that was in September of 2011. Let's take a
3 step back.

4 A Right.

5 Q At some point do you learn that there's going to be
6 an event at the Mansion related to Anatabloc?

7 A Yes, I do.

8 Q How do you learn that?

9 A Well, I had -- I learned it from Mr. Eige and Mr. --
10 and Martin Kent called me to come to a meeting at their
11 office. And I went to the meeting. I had other business
12 there as well, and I was glad to get a quick meeting. And
13 they had major concerns about this launch that was going
14 to happen at the Mansion.

15 MR. DRY: Can we bring up Government's Exhibit
16 4, please.

17 BY MR. DRY:

18 Q Do you recognize this document, sir?

19 A Yes.

20 Q And this is basically a time sheet for you and
21 Mr. Nolen at McGuireWoods?

22 A Correct.

23 MR. DRY: Government moves for Government's
24 Exhibit 4 into evidence, Your Honor.

25 THE COURT: It will be admitted.

1 BY MR. DRY:

2 Q And just to be clear, how great of a timekeeper are
3 you?

4 A Well, we normally -- on the consulting side, which is
5 why I want to be on the consulting side, we don't have to
6 do time sheets that are -- account for every tenth of an
7 hour that the law firm has to do. And we generally don't
8 do work on an hourly basis. We do work on a project basis
9 or a monthly retainer basis.

10 Q So it's more of a -- either like a flat fee or --

11 A It is a -- it's a flat fee. That's how I would
12 describe it.

13 Q Okay.

14 MR. DRY: Can we go down to August 12th of 2011.

15 BY MR. DRY:

16 Q And right there, it shows an hour -- or .9?

17 A Right.

18 Q Is that the length of time?

19 A Right.

20 Q And then that's how much it cost? Not to be rude.

21 A Yes.

22 Q Okay. And then here -- what are you referring to,
23 "Discussions with C. Nolen on strategies at Tobacco
24 Commission"? Do you recall what that --

25 A We -- Chris and I met before I went to this meeting.

1 Q Okay. And then it says, "Meeting with J. Eige and M.
2 Kent, Chief of Staff, regarding rollout issues"?

3 A Correct.

4 Q Do you recall Mr. Williams informing you of concerns
5 by Eige and Kent before you had the meeting?

6 A Yes.

7 Q What did he tell you?

8 A That they were concerned about the launch of
9 Anatabloc being at the Mansion, that they didn't want it
10 at the Mansion.

11 Q And what did he tell you to do?

12 A He said, "Well, the First Lady and the Governor want
13 it at the Mansion. So we're going to have it at the
14 Mansion."

15 Q And did he ask you to reach out to Eige and Kent
16 about this?

17 A They reached out to me.

18 Q Okay. And what did they tell you?

19 A They were opposed to having a launch at the Mansion,
20 that it was -- they did not believe that it was
21 appropriate to have this launch at the Mansion, that --
22 and they suggested that any launch of the project be at
23 the -- at the BioTech Park here in Richmond and not at the
24 Mansion.

25 Q Did they --

1 A And they asked me to pass that back on to
2 Mr. Williams.

3 Q Did they say anything about whether they were
4 familiar with any other similar event like this?

5 A I mean, they just went on that we don't do those
6 rollout -- we don't do announcements like that at the
7 Mansion. We should not do those announcements at the
8 Mansion.

9 Q And they ask you to talk to Mr. Williams. Do you?

10 A I do.

11 Q And what do you tell Mr. Williams?

12 A I told him that they did not want it at the Mansion
13 and that, you know, he needed to look at the BioTech Park
14 as a potential place to do a rollout.

15 Q And what was his reaction?

16 A His reaction was he didn't want to do that. He
17 needed the Mansion. He wanted the Mansion because that
18 would be a great place, get better press, he said, so that
19 he could rollout his product.

20 Q Is he talking about the Governor and Ms. McDonnell's
21 support of this?

22 A Yeah. He always would say that they support this
23 project and that we need -- he needs to have this at the
24 Mansion because they want to have it at the Mansion.

25 Q Now, were you actually involved in the planning of

1 the Anatabloc event at the Mansion?

2 A I was not.

3 Q Were you invited to the event?

4 A I was not.

5 Q Okay. At this point, after your conversations with

6 Mr. Eige and Kent and then your conversation with

7 Mr. Williams -- first of all, I believe you -- your time

8 sheet says August 12th, 2011. How long after that do you

9 think that you relayed Mr. Eige and Mr. Kent's message to

10 Mr. Williams?

11 A I would have tried to call that day. So I would have

12 reached him that day or the very next day.

13 Q Okay. And from your call with Mr. Williams, let's

14 ballpark it, August 12th, August 13th, up to August 30th,

15 did you know whether there was actually going to be an

16 event at the Mansion?

17 A I did not.

18 Q Okay.

19 A Up until August 29th.

20 Q Okay. Well, let's talk about that. How do you find

21 out that the event is -- there's going to be an event and

22 it's going forward at the Mansion on August 30th?

23 A That Mr. Eige, again, calls to say, "Have you seen

24 this press release that Star wants to put out with the

25 Governor's statement in it?"

1 I was like, "I don't know now what you're talking
2 about." And he was reading it to me. And I said, "Well,
3 you know, I didn't write it. I didn't" -- "I don't know
4 anything about this. It's not what they have hired me to
5 do, but I will call. I will deal with it."

6 And so I called Mr. Williams, who -- to say,
7 "They're" -- "they're not going to" -- "they don't want
8 you to put out a statement that the Governor hasn't
9 approved on your letterhead."

10 Q Okay. And what was his reaction?

11 A Well, he just said he would call in to Star, in to
12 Star.

13 Q Did you -- well, how certain are you that you talked
14 to Mr. Williams or Mr. Pokusa about that? I just want
15 your best recollection.

16 A No. It could have been Mr. Pokusa, because we were
17 working with him on all the other issues.

18 Q Okay. All right. Did you attend the event at the
19 Mansion?

20 A I did not.

21 Q After the August 30th, 2011, event at the Mansion,
22 was -- did you discuss with Mr. Williams whether he wanted
23 to go forward with the studies at UVA and VTC -- or
24 Tobacco Commission funding?

25 A We discussed that with Star.

1 Q Okay.

2 A But Mr. Pokusa significantly.

3 Q And what was --

4 A We had another conference call. I mean, we were
5 trying to move this forward, do a conference call. We had
6 another conference call in November of that year to sort
7 of, you know, get moving on the research.

8 Q Well, let me ask you about that. You said originally
9 that there was like this deadline of August that you
10 missed.

11 A Right.

12 Q Now you're talking about a conference call in
13 November. Why didn't you move the ball forward from
14 August to November?

15 A Well, the August -- you know, Star wasn't ready in
16 August, and our view was Star wasn't moving forward with
17 the researchers until that November phone call when we had
18 a phone call scheduled with the researchers at UVA and
19 VCU.

20 Q And did you actually participate in that call, sir?

21 A I opted out of that call, and Chris Nolen
22 participated in the call because it was going to be a
23 research call.

24 Q Okay. Now, from the time of that call through
25 February of 2012, what's going on with this grant

1 application process? Did you make a submission?

2 A We did not. The -- Star is supposed to be working
3 with the researchers, getting the researchers on board so
4 that we can submit for the next deadline.

5 Q And were they --

6 A They were not being successful at that time.

7 Q Okay. And in February of 2012, did you discuss the
8 fact -- did you discuss with Mr. Williams UVA and VCU not
9 moving the ball forward?

10 A Yes. He was wondering why we weren't moving forward
11 with the Tobacco Commission, and I said, "Well, UVA and
12 VCU haven't stepped up to the plate yet. So we can't move
13 forward."

14 Q And what was Mr. Williams' reaction with UVA and VCU?

15 A Well, he -- he was not happy about that.

16 Q And in that conversation with Mr. Williams, did he
17 bring up Mr. McDonnell and Ms. McDonnell?

18 A He again reminded me that they supported his research
19 and they wanted to find a way to help the research.

20 Q From your perspective, if the Governor does support
21 this idea of the research, as the lobbyist, was that going
22 to be helpful for you doing what you needed to do?

23 A Well, it's always helpful to have the Governor
24 support something you're doing as a lobbyist.

25 Q Why?

1 A Well, I mean, the Governor is the Chief Executive of
2 the Commonwealth. He has this bully pulpit, if you will,
3 to go out and talk about issues. Whatever the issue is,
4 he has the power of that office to go out.

5 Q But to be fair, I mean, the commissioners of the
6 Tobacco Commission make the decisions on the Tobacco
7 Commission funding?

8 A Absolutely.

9 Q So why does it matter to you whether you have the
10 Governor's support?

11 A It's always helpful to have the Governor on the front
12 of your -- or in your application materials, to say the
13 Governor supports a project.

14 Q All right. After your conversation with Mr. Williams
15 about things not moving forward with UVA and VCU, do you
16 have a subsequent conversation with Mr. Eige about this?

17 A Yes. Yes, I do. Jasen Eige called me about it again
18 to say that, you know, "I don't think we should be
19 pressuring UVA and VCU on this research." And I'm like,
20 "What are you talking about?"

21 And he's again saying, "Well, I've been asked by the
22 Governor to call and put" -- "you know, show support for
23 this research, and I'm just" -- "I just don't think we
24 should be doing it."

25 And I'm thinking, "It's Jasen being Jasen," and just

1 say, "Well, you know it doesn't hurt to have the
2 Governor's support for these projects, and we'd like to
3 have his support for the research."

4 Q Well, I mean, at this point did you see anything
5 wrong with the Governor supporting the research?

6 A Oh, I thought it would be helpful. I wanted the
7 Governor's support.

8 Q But there was nothing inherently illegal about the
9 Governor supporting the research?

10 A Oh, absolutely not. I wouldn't be asking if it were.

11 Q Okay. Fair enough.

12 Did Mr. Eige say that the Governor had asked him to
13 call you or was he calling you on his own from your call?

14 A He said the Governor had made an inquiry.

15 Q An inquiry of him?

16 A To him, yes.

17 Q What did you tell Mr. Eige -- well, what did you tell
18 Mr. Eige?

19 A That, you know, "We'd like to have the support. We'd
20 like to have the Governor's support, that the Governor
21 can" -- "can voice support with" -- "with any of
22 Virginia's universities about research he may support."

23 Q Did Mr. Eige specifically ask you to do anything as a
24 result of his call?

25 A No. Not at that time.

1 Q But did you have a feeling about what he was hoping
2 you would do?

3 A Well, I certainly passed it back to -- to Star and
4 Mr. Williams to say that, you know, the -- that Jasen
5 isn't confident that the Governor should weigh in here.

6 Q Are you telling Mr. Williams, "Hey, the Governor has
7 said" -- "personally said he's not going to do this"?

8 A I didn't say the Governor -- no. The Governor didn't
9 say -- Jasen did not tell me the Governor wasn't going to
10 do this. Jasen said he was uncomfortable with the
11 Governor doing it. And I passed that back on to
12 Mr. Williams.

13 Q Well, what is Mr. Williams' reaction when you tell
14 him, "Hey, Eige is saying that he's uncomfortable"?

15 A Well, he again said they support his research, and he
16 would like their help.

17 Q When you're having any of these conversations with
18 Mr. Eige or Mr. Williams, at any of these points is he
19 telling you about the things of value that he had given to
20 the Governor and the First Lady?

21 A No.

22 Q Okay. We can do this fairly quickly.

23 You said that you were --

24 THE COURT: Mr. Dry, are you almost finished?

25 MR. DRY: I think I've got about 15 more

1 minutes, Your Honor.

2 THE COURT: All right.

3 Well, Mr. Kilgore, it looks like you're going to have
4 to come back tomorrow. Obviously, we've got two
5 cross-examinations, and you're not even close. So we
6 might as well look out for the comfort of our jury and
7 allow you all to leave now.

8 As I've said over and over again, please don't review
9 any media items regarding this case. Don't allow anyone
10 to discuss it with you. And you all be safe, and we'll
11 see you tomorrow morning at -- just a second. Let's make
12 it 9:45 again. All right.

13 (The jury left the courtroom.)

14 THE COURT: I'm going to go down for about five
15 minutes and come right back in, and we'll have a hearing
16 on this -- this witness issue. So I'll be right back.

17 (Recess taken from 5:32 p.m. until 5:39 p.m.)

18 THE COURT: All right. Let's approach this in
19 this way. I know this is the defendants' motion, but I
20 think I understand the defendants' position completely.
21 I'll hear from the government, and then from the
22 defendants if they feel it's necessary.

23 Government.

24 MR. COOKE: Thank you, Your Honor. I'll try to
25 be brief. As I understand the defendants' position,

1 particularly through their reply brief, they are
2 emphasizing the comparison between the testimony --
3 proposed testimony of Mr. Skunda and Ms. Bridge with that
4 that was excluded from Mr. Earley.

5 And the testimony is very different. The essence of
6 Mr. Earley's testimony was to give an opinion about the
7 legality of conduct, and in particular, the legality of
8 the McDonnells' conduct, and tell the jury when an
9 official can be paid personal funds for performing acts
10 that --

11 THE COURT: Let's save some time. I don't need
12 to hear that.

13 Tell me what it is that you're going to present
14 through these witnesses, why it's relevant, and --

15 MR. COOKE: Sure.

16 THE COURT: -- what is fact and what is opinion.

17 MR. COOKE: Okay. I'll start with Ms. Bridge,
18 who was Mansion director from 2002 to 2010 for Governor
19 Mark Warner and Tim Kaine. And she could testify about
20 the types of events that were held at the Governor's
21 Mansion. She would not be saying what -- she wasn't --
22 did not have a role in selecting what events would be held
23 at the Mansion, but she had personal experience and
24 knowledge about what was done at the Mansion.

25 And that's relevant because under the definition from

1 JEFFERSON and BIRDSALL for an official act, the Fourth
2 Circuit has a firm instruction that said, "Official acts
3 include those activities that have been clearly
4 established by settled practice as part of a public
5 official's position."

6 And we think it's helpful to the jury to understand
7 the types of events, meetings, and the promoting a
8 Virginia business that have been the subject matter of
9 this case are the types of things that other governors
10 have done and, therefore, are part of a settled practice
11 that's been clearly established.

12 I also would emphasize, this is going to be very
13 short testimony. We expect that both Ms. Bridge and
14 Mr. Skunda, combined, that their direct examinations would
15 take less than a half an hour.

16 THE COURT: All right. And Mr. Skunda, what
17 is -- he's just going to do the same thing?

18 MR. COOKE: Essentially. He was Secretary of
19 Commerce from 1994 to 1997, and so he would testify about
20 meetings that were held to promote Virginia businesses and
21 events.

22 THE COURT: Okay. Thank you.

23 MR. COOKE: Sure.

24 THE COURT: Okay. The McDonnells.

25 MR. BURNHAM: Just very quickly, Your Honor.

1 All I would emphasize is that the reason that Mr. Cooke
2 gave for this being relevant -- these are not fact
3 witnesses, of course, since they don't have any personal
4 knowledge of the facts in this case. And that sounded to
5 me like classic expert testimony.

6 Other than that, I think the Court understands our
7 position. So thank you.

8 THE COURT: All right. As to Mr. Skunda, the
9 defense motion will be granted. As to Ms. Bridge, the
10 Mansion executive, that motion will be denied.

11 And let me say this as to Skunda. Just so we're
12 clear, it is possible that the defendants, in putting on
13 their case, could make Skunda relevant and material. Just
14 so you know, I mean, if this comes back for rebuttal,
15 there might be another look at that. But at this point,
16 I'm not going to allow Skunda and his testimony about the
17 meetings. All right.

18 (The trial adjourned at 5:43 p.m.)
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